



**Final Actions and Supplemental Findings
of the
California Department of Fish and Wildlife**

for the

**Newhall Ranch Resource Management and Development Plan
and Spineflower Conservation Plan**

**Master Streambed Alteration Agreement No. 1600-2004-0016-R5
and
Incidental Take Permit Nos. 2081-2008-012-05 and 2081-2008-013-05**

(June 14, 2017)

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INTRODUCTION

The California Department of Fish and Wildlife (CDFW) has prepared these findings to document its decision to re-approve the Newhall Ranch project, a large-scale residential and commercial development, and two associated planning areas, located in the unincorporated portion of the Santa Clarita Valley in northwestern Los Angeles County. In so doing, CDFW corrects two legal defects identified by the California Supreme Court in litigation challenging CDFW's prior review and permitting of the project in December 2010. (*Center for Biological Diversity v. California Department of Fish and Wildlife* (2015) 62 Cal.4th 204.) CDFW is taking action in direct response to the Supreme Court's decision, further guided by input on remand from both the Second Appellate District and Los Angeles County Superior Court.¹

CDFW's final action involves, among other things, an exercise of independent judgment and discretion under the Fish and Game Code and the California Environmental Quality Act (CEQA)(Pub. Resources Code, § 21000 et seq.). CDFW is taking action in both respects to specifically correct the two legal errors identified by the California Supreme Court. In substance, CDFW has considered and is taking final action to modify the project originally approved in 2010 with new mitigation measures initially proposed after the Supreme Court decision by the project applicant, The Newhall Land and Farming Company (Newhall Land or applicant). As to these measures and CEQA, CDFW is taking action as a lead agency after completing a public review effort evaluating the environmental effects of modifying the project as originally approved.

The two legal errors identified by California Supreme Court are the driving force behind CDFW's additional environmental review and this corrective action. First, the Court directed CDFW to revisit its 2010 determination that the project's greenhouse gas (GHG) emissions would not be significant under CEQA. Second, the Court held that two mitigation measures approved by CDFW authorizing, if necessary, collection and relocation of stranded fish during in-water construction activity violated protections afforded "fully protected" species under the Fish and Game Code.

In response, Newhall Land is proposing to modify the project as originally approved in two respects. First, the applicant has developed a detailed reduction plan to achieve "Net Zero Emissions" for the project, thereby reducing, mitigating or offsetting 100% of the project's GHG emissions. Second, the applicant is proposing to modify design and construction methods for the project's bridges and bank stabilization that eliminate the need for the collection and relocation measures approved by CDFW in 2010. In so doing, the applicant will avoid all contact with the wetted channel of the Santa Clara River during construction of bridges and bank stabilization infrastructure, thereby

¹ The Second Appellate District, Division Five, decision on remand appears in the official reports as *Center for Biological Diversity v. California Dept. of Fish and Wildlife* (2016) 1 Cal.App.5th 452, reh'g denied (August 10, 2016), review denied (October 12, 2016).

The December 16, 2016 judgment entered in the related trial court proceedings is currently on appeal in the Second District. (*Center for Biological Diversity v. California Dept. of Fish and Wildlife*, B280815, appeal filed February 17, 2017.)

eliminating the need for any stream diversion or the collection and relocation of any fish, including the fully protected unarmored three-spine stickleback (*Gasterosteus aculeatus williamsoni*).

Central to the effort under CEQA on remand from the California Supreme Court is "additional environmental analysis" prepared by CDFW. (SCH No. 2000011025.) That analysis consists of two documents that, in combination, these findings refer to as the "2017 AEA." The two documents that comprise the 2017 AEA are the *Newhall Ranch Resource Management Plan and Spineflower Conservation Plan Draft Additional Environmental Analysis* (November 3, 2016)(hereafter, the Draft AEA) and the *Newhall Ranch Resource Management Plan and Spineflower Conservation Plan Final Additional Environmental Analysis* (June 12, 2017)(hereafter, the Final AEA). These findings refer to the Draft and Final AEA, respectively, only when necessary to distinguish either document relative to the broader 2017 AEA.

The 2017 AEA prepared by CDFW and certified through the adoption of these findings as detailed below provides analysis in addition to the final environmental impact report CDFW certified for the project in December 2010 (hereafter, the 2010 Final EIR). (SCH No. 2000011025.) With respect to the proposed project, CDFW prepared and later certified the 2010 Final EIR to document the potentially significant environmental effects that may occur as permitted under the Fish and Game Code or as otherwise facilitated by CDFW's approval of the Newhall Ranch Resource Management and Development Plan and Spineflower Conservation Plan (RMDP/SCP). In December of the same year, CDFW certified the 2010 Final EIR, adopted findings of fact (2010 CEQA Findings) and a mitigation monitoring and reporting program (2010 MMRP), and approved the project under CEQA as a lead agency. CDFW also took action under the Fish and Game Code, and issued two Incidental Take Permits (ITPs) and entered into a Master Streambed Alteration Agreement (MSAA) with Newhall Land. For ease of reference in these findings, these actions and authorizations, and the underlying activities are referred to, in combination, as the "Project."

CDFW is prepared against this backdrop to take final action under CEQA and the Fish and Game Code to approve the Project as modified. CDFW's final action as detailed below includes lead agency certification that CDFW reviewed and considered the information contained in the 2017 AEA, in combination with the 2010 Final EIR, and that the 2017 AEA corrects the 2010 Final EIR analysis in compliance with CEQA and the CEQA Guidelines.² In addition as set forth below, CDFW certifies the 2017 AEA and 2010 Final EIR, in combination, reflect CDFW's independent judgment and discretion. Likewise in taking final action, CDFW adopts these required findings and takes other actions as explained below, including action specifically to cure the legal deficiencies identified in the litigation referenced above. Further, CDFW finds in approving the Project as modified that the MSAA and ITPs previously issued by CDFW in 2010, which are incorporated here by reference, remain substantively adequate under the Fish and Game Code, and to the extent challenged in the litigation referenced above, those

² The "CEQA Guidelines" are found in Title 14 of the California Code of Regulations, commencing with section 15000.

challenges were resolved in favor of CDFW. Finally, CDFW finds the MSAA and ITPs remain adequate and valid in this respect as supplemented by the 2017 AEA and as further detailed specifically in the 2017 Errata to the MMRP originally adopted by CDFW in 2010.

I.

FACTUAL BACKGROUND AND CONTEXT

This section provides information regarding CDFW's actions in 2010 and the litigation that followed, including the 2015 decision by the California Supreme Court. Also included is a detailed overview of the specific modifications at issue here compared to the Project as originally approved in 2010, and details regarding the public environmental review effort for the 2017 AEA. Importantly, this section also describes CDFW's efforts and compliance with its Tribal Communication and Consultation Policy (October 2, 2014). This information is included to, among other things, further document CDFW's compliance with CEQA, the Fish and Game Code, and court direction in the litigation referenced above.

A. 2010 Final EIR Background and Prior Environmental Impact Conclusions Related to GHG and Unarmored Threespine Stickleback

In 2004, CDFW and the U.S. Army Corps of Engineers (Corps) began preparation of a joint Environmental Impact Statement/Environmental Impact Report (EIS/EIR) (SCH No. 2000011025) for the RMDP/SCP, the two natural resource plans that comprise the Project and are the basis, in part, for associated state and federal permits issued to the applicant. The RMDP/SCP and the ITPs and MSAA issued by CDFW will guide development of the Los Angeles County-approved Newhall Ranch Specific Plan, a large-scale residential and commercial development, and two other planned developments on the applicant's land holdings located in the unincorporated portion of the Santa Clarita Valley in northwestern Los Angeles County (i.e., Valencia Commerce Center and Entrada). The Corps served as lead agency for the EIS portion of the joint EIS/EIR under the National Environmental Policy Act (NEPA). CDFW acted as lead agency for the EIR portion of the joint EIS/EIR under CEQA, with that portion referred to in these findings as the 2010 Final EIR.

At the time of its original approval CDFW determined based on the 2010 Final EIR and other information that the Project would not result in significant GHG emissions impacts under CEQA after considering identified mitigation measures and other adopted regulatory requirements. As to the unarmored threespine stickleback, CDFW determined also in reliance on the 2010 Final EIR and other information that the Project's construction-related stream diversion and dewatering activities in the Santa Clara River, which runs through the Newhall Ranch Specific Plan Area, could result in a significant impact to the unarmored threespine stickleback and other special status fish. In response, the 2010 Final EIR included and CDFW approved two mitigation measures, BIO-44 and BIO-46, among others, to avoid or reduce impacts to aquatic species during construction, including unarmored threespine stickleback. BIO-44 and BIO-46 as

approved by CDFW permitted the U.S. Fish and Wildlife Service (USFWS) or its agents to collect and relocate unarmored threespine stickleback during construction, if necessary, to avoid adverse effects and the prospect of "take" under state law during construction of Project bridges and bank stabilization. With those two mitigation measures in place, the 2010 Final EIR discusses and CDFW concluded at the time of approval in 2010 that environmental impacts to the species would be less than significant.

B. Litigation Status and Summary of Supreme Court Decision

In January 2011, litigation ensued challenging CDFW's certification of the 2010 Final EIR and approval of the Project under CEQA, and CDFW's related actions under the Fish and Game Code. After appeal, on July 9, 2014, the California Supreme Court granted the petitioners' request to review three issues addressed by the Second Appellate District in March 2014. Two of the three are the subject of this corrective action by CDFW.

1. Greenhouse Gas Emissions

In its decision the Supreme Court first ruled favor of CDFW in two respects. The Supreme Court held CDFW could permissibly rely on the Project's consistency with "AB 32's" reduction target to determine whether the Project's GHG emissions would be significant.³ The Court also upheld CDFW's comparison of the Project's projected emissions to an unregulated future, business-as-usual scenario, instead of existing baseline emissions, to determine the significance of the emissions for purposes of CEQA. The Court then turned to the issue of whether CDFW's determination that the Project's GHG emissions would be less than significant was supported by substantial evidence. Finding to the contrary, the Court concluded CDFW failed to identify substantial evidence to support how the Project's estimated reduction compared to a "business as usual" setting would be sufficient to demonstrate consistency with a statewide percentage reduction goal for GHG emissions, as expressed in the California Air Resources Board's (ARB) Scoping Plan for achievement of AB 32's 2020 reduction target. The Court held, in short, that CDFW's prior significance determination was not supported by substantial evidence.

In response to the Supreme Court's decision, the 2017 AEA, along with related appendices and responses to comments, quantifies the Project's GHG emissions and analyzes the feasibility of achieving the applicant's proposed commitment to reach zero net GHG emissions, based on identified mitigation measures (Mitigation Measures 2-1 through 2-13). The 2017 AEA addresses both the underlying potential environmental impact of GHG emissions resulting from implementing the Project and the mitigating influence of the proposed mitigation measures. Data and documentation regarding the proposed mitigation measures submitted by the applicant have undergone independent technical analysis and review by CDFW, in consultation with ARB, along with CDFW's consultant, which resulted in refinements and clarifications to the GHG mitigation

³ "AB 32" is a reference to the California Global Warming Solutions Act of 2006 (Health & Saf. Code, § 38500 et seq.).

measures from the November 2016 Draft AEA to the June 2017 Final AEA. The analysis in the 2017 AEA, including in CDFW's responses to public comments, take into account the California's long-term climate policies, including the enactment of the 2030 GHG reduction target in Senate Bill 32 (SB 32)(Stats. 2016, ch. 249, § 2, adding Health & Saf. Code, § 35866) and the 2050 emissions reduction goal described in Executive Order S-3-05, as issued by former Governor Schwarzenegger.

2. Unarmored Threespine Stickleback

The 2010 Final EIR identified potentially significant impacts to the unarmored threespine stickleback and other special status fish, and included mitigation measures to protect these resources, including BIO-44 and BIO-46. These latter two measures, as mentioned above, allow USFWS to collect and relocate the fish, if necessary, during the construction of bridges and bank stabilization in or near the Santa Clara River. CDFW adopted these measures and others as part of its approval of the Project in 2010.

The Supreme Court held the collection and relocation measures approved by CDFW in 2010 violated the Fish and Game Code section 5515 prohibition against authorizing the take or possession of fully protected species. In response to the Supreme Court decision the applicant has re-evaluated the methods by which the Project's bridges and bank stabilization will be designed and constructed, and has proposed bridge design and construction methods, which avoid any impact to the wetted channel of the Santa Clara River. These modifications will protect unarmored threespine stickleback and other aquatic species and resources, and eliminate any need to collect or relocate unarmored threespine stickleback during construction of Project bridges and bank stabilization infrastructure. With no water contact during related construction BIO-44 and BIO-46 are no longer necessary and, with final action by CDFW, are eliminated from the Project's MMRP and any related CDFW action under CEQA and the Fish and Game Code.

3. Additional Environmental Analysis

CDFW has prepared the 2017 AEA as a CEQA lead agency. In preparing the related GHG analysis, CDFW consulted with its consultant, and ARB specialists with expertise in global climate change, GHG emissions modeling and analysis, and GHG emission reduction strategies. In addition, analysis in the 2017 AEA of potential environmental impacts and mitigation measures related to the unarmored threespine stickleback was subject to technical guidance, review, and approval by CDFW biologists, engineers, and environmental specialists with expertise in the life history, habitat requirements, and ecology of the species and other biological trust resources. Please refer to the List of Preparers in the 2017 AEA for the agency staff and consultants involved in preparing CDFW's additional analysis.

During preparation of the 2017 AEA, the applicant submitted to CDFW descriptions of the proposed modifications to the Project, modeling of GHG emissions, proposed GHG and unarmored threespine stickleback mitigation measures, preliminary environmental impact

analyses, and other Project information. With respect to that and all other information presented in the 2017 AEA CDFW embraced and exercised its independent lead agency review obligations pursuant to Public Resources Code section 21082.1, subdivision (c)(1). CDFW also applied its independent judgment and discretion: (a) estimating the Project's GHG emissions, defining the ultimate approach to achieving zero net emissions, making Project-specific and cumulative GHG impact significance determinations, and including final GHG mitigation measures to achieve the project applicant's commitment to zero GHG emissions; and (b) determining the potential impacts on unarmored threespine stickleback with regard to the modified design and construction methods for the Project's bridges and bank stabilization, defining the ultimate approaches to avoiding the prospect of take under state law of stickleback, making biological impact significance determinations, and including final mitigation measures that comply with the Fish and Game Code.

4. Scope of the Additional Environmental Analysis

As discussed above, CDFW prepared the 2017 AEA in response to the Supreme Court's decision, as guided further by input on remand provided by the Second Appellate District and Los Angeles County Superior Court. Consistent with those decisions the 2017 AEA is focused on potential environmental effects that may occur with implementation of the Project as modified, with those modifications prompted by corrective action to address the two shortcomings in CDFW's prior review and approval of the Project in 2010. The 2017 AEA is focused, in this respect, on the information necessary for CDFW to address and correct the two deficiencies identified by the Supreme Court, consistent with CEQA and CEQA Guidelines section 15088.5. For a detailed overview of the scope of CDFW's environmental review effort on remand, please see Topical Response No. 1: Scope of the Additional Environmental Analysis, in the 2017 AEA.

CDFW finds that, except as to GHG emissions and impacts to unarmored threespine stickleback addressed herein and analyzed in the 2017 AEA, all other environmental impacts that may be caused by the Project as modified are adequately addressed in the 2010 Final EIR and CDFW's 2010 CEQA Findings. CDFW also finds that its prior consideration of alternatives, growth inducing impacts, and cumulative impacts are adequate as detailed in the 2010 Final EIR and 2010 CEQA Findings, except as to cumulative impacts related to GHG emissions and unarmored threespine stickleback considered herein given the applicant's proposed modifications to the Project as originally approved in 2010.

For purposes of CEQA, the 2017 AEA augments the environmental information set forth in the 2010 Final EIR and CDFW's 2010 CEQA Findings. CDFW has taken into account the combination of the information in the 2010 Final EIR and the 2017 AEA prior to taking final action.

5. Public and Agency Outreach

CDFW completed and released the November 2016 Draft AEA for public and agency review and comment for an initial 65-day period. The review period began November 3, 2016 and was set to close January 6, 2017. CDFW issued a second Notice of Availability in December 2016, extending the deadline for public comment to February 13, 2017. In combination CDFW provided a total of 103 days for public review of the Draft AEA.

CDFW made the Draft AEA available to the public electronically at its web page: wildlife.ca.gov/Regions/5/Newhall. A CD copy of the Draft AEA could also be obtained upon request by email to CDFW at NewhallRanch@wildlife.ca.gov. In addition, CDFW provided hard copies of the Draft AEA for public review at CDFW's South Coast Regional Office in San Diego, its office in Los Alamitos, in Sacramento at CDFW's Habitat Conservation Planning Branch, and at the public locations listed below:

- Old Town Newhall Library, 24500 Main Street, Santa Clarita, CA 91321
- Stevenson Ranch Library, 25950 The Old Road, Stevenson Ranch, CA 91381
- Valencia Library, 23743 West Valencia Boulevard, Santa Clarita, CA 91355
- Sylmar Library, 14561 Polk Street, Sylmar, CA 91342
- E.P. Foster Library, 651 East Main Street, Ventura, CA 93001
- Castaic Library, 27971 Sloan Canyon Road, Castaic, CA 91384

Following public review CDFW independently reviewed and evaluated the comment letters and supplemental information received on the Draft AEA, and prepared written responses to all public comments. CDFW was aided in the effort by its own staff and consultant, and staff at ARB with specific expertise in global climate change, GHG modeling, analysis, and reduction strategies. Likewise, the applicant submitted an initial evaluation to CDFW of the public comments and related information received by CDFW during the public review period in the form of proposed responses to the public comments. Ultimately, CDFW independently considered and prepared written responses in good faith to all public comments on the Draft AEA, and those responses as included in the 2017 AEA reflect CDFW's independent review and judgment. Finally, on June 2, 2017, CDFW provided proposed written responses to every public agency that commented on the Draft AEA.

C. Summary of Project Modifications

The Project area includes 14,288 acres in the Santa Clarita Valley, Los Angeles County. The two natural resources management plans central to CDFW's approval of the Project in 2010 (i.e., the RMDP and SCP) will be implemented as part of three land developments planned within the Project area (i.e., Newhall Ranch Specific Plan, Entrada, and Valencia Commerce Center). Final AEA Figure 1.2-1 depicts the land use plan for the 14,288-acre Project area. AEA Table 1.2-1, *Statistical Summary of Planned Developments*

Implementing the RMDP and SCP, identifies the development planned with individual land use categories, divided into the three development areas. It also identifies the Project's open space attributes, including the reservation of approximately 10,800 acres for open space uses, including approximately 8,500 acres of managed and funded open space preserves, within the Specific Plan area and the adjacent 1,517-acre Salt Creek corridor.

Project-related development as overseen by Los Angeles County is planned on approximately 2,570 net developable acres within the Newhall Ranch Specific Plan/RMDP area (i.e., an approximately 13,650-acre area). The development includes approximately 19,517 residential units, about 5.45 million square feet (msf) of commercial uses, and supporting public facilities, including schools, fire station, library, and recreational amenities. The Project would be implemented in conjunction with development within two other planning areas — Entrada and Valencia Commerce Center. The development would include approximately 3.4 msf of mixed-use, commercial, and business park uses, along with the reservation of open space, in conjunction with the build-out of the Valencia Commerce Center planning area. Within the Entrada planning area, the development would include approximately 1,725 residential units and additional mixed-used/commercial uses, along with public facilities and open space.

The Newhall Ranch Specific Plan, and the land use plans for Entrada and the Valencia Commerce Center as previously approved by Los Angeles County have not been revised by the applicant or the County since CDFW approved the Project in 2010.

1. Modified GHG Reduction Commitments

The applicant's voluntary commitment to achieve zero net GHG emissions is a change in approach and intended performance, compared to Project CDFW approved in 2010. As modified, the Project's net GHG emissions would be reduced to zero (unlike the net positive emissions reported in 2010) through implementation of the final mitigation measures identified in the 2017 AEA. A detailed description of the specific GHG measures that will achieve zero net emissions are described below and in the 2017 AEA.

2. Modified Construction Methods for Bridges and Bank Stabilization

The applicant is proposing to modify the design and construction method for the Long Canyon Road Bridge and the Commerce Center Drive Bridge, which are the two permanent bridges, along with two temporary haul routes and bank stabilization, so that bridge piers and bank stabilization are constructed outside the wetted channel of the Santa Clara River. Specifically, the applicant proposes to avoid all construction work and any related stream diversion in the wetted channel of the Santa Clara River. Yet, but for a reduction in the total number of bridge piers compared to 2010, the construction would occur within the same construction footprint previously analyzed by the 2010 Final EIR. As explained in the Draft AEA, page 3-27, in some cases, bridge impacts would be less

than those analyzed in the 2010 Final EIR because the modified bridges would have a total of five fewer piers (which equates to 20 fewer columns and supporting piles) than the bridges previously analyzed. (Each bridge pier consists of a row of four columns.) Further, the proposed modifications in bridge construction do not change the location, size, or use of the bridges. The modified design and construction methods would include best management practices that avoid the potential to strand or cause other adverse impacts to fish, including unarmored threespine stickleback. The specific modified design and construction methods and mitigation measures necessary to reduce potentially significant impacts to less than significant are described below and in the 2017 AEA.

D. Tribal Communication and Consultation

This portion of the findings addresses and describes CDFW's efforts to communicate and consult with tribal communities regarding the applicant's proposed changes to the Project and related preparation of the 2017 AEA. CDFW emphasizes its commitment to and the importance of such government-to-government dialogue given shared interest in the conservation of California's fish and wildlife trust resources, and the unique perspective and expertise tribal members bring to those efforts. CDFW makes the findings set forth below against the backdrop of its Tribal Communication and Consultation Policy, issued on October 2, 2014 (Tribal Policy).

1. Overview and Context

In 2011, the Governor issued Executive Order B-10-11 directing state agencies to encourage communication and consultation with tribes in a way that allowed meaningful input into the development of laws and policies that may affect tribal communities. This was followed on November 20, 2012 with the California Natural Resources Agency (CNRA) issuing its own Tribal Consultation Policy. The stated purpose of the CNRA policy, consistent with the earlier executive order, is to improve consultation and communication with tribes and to promote durable outcomes by including tribes throughout the decision-making processes of its departments. CDFW in turn, a department within CNRA, adopted its own Tribal Policy as noted above in October 2014. The Tribal Policy is the foundation for CDFW's interaction with federally recognized tribes and tribes on the contact list maintained by the Native American Heritage Commission (NAHC) for purposes of tribal cultural resource protection. The purpose of CDFW's Tribal Policy is to establish effective tools for communication and consultation between CDFW and interested tribal stakeholders.

Under its Tribal Policy, CDFW seeks tribal input on CDFW actions in order to identify potential issues, to ensure to the maximum extent feasible that tribal interests are considered before undertaking actions, and to avoid or minimize related impacts whenever practicable, consistent with CDFW's legal authority under the Fish and Game Code. The Tribal Policy directs CDFW staff, specifically, to contact tribes for CDFW activities that may have a significant impact on tribal interests, which are broadly defined to include cultural resources and fish, wildlife, and plants. For regional activities that may impact cultural resources, the Tribal Policy directs CDFW staff in the appropriate regional

office to request from the NAHC a list of tribes that are affiliated with the project area. The Tribal Policy then directs CDFW staff to send written notice to all federally recognized and other tribes on that list.

Notices under CDFW's Tribal Policy are sent by letter to the Chairperson of a federally recognized tribe or, for non-federally recognized tribes on the list, to the contact identified by the NAHC. The notices include a brief description of the proposed project, anticipated impacts to tribal interests, and an offer to consult with the tribe regarding the project and its potential impacts. The notices ask the tribe to contact the CDFW Tribal Liaison to request formal consultation. CDFW staff send these notices in a timely manner to ensure interested tribes have an opportunity to provide input to CDFW during the review and decision-making process for the project.

Under CDFW's Tribal Policy a tribe may request consultation on a project for which it received notice or on any other CDFW activities that may impact its interests. The Tribal Policy asks that tribal consultation requests be in writing and directed to the CDFW Tribal Liaison, specifically. In general upon receipt of any such request CDFW will seek to schedule a consultation within 30 days if feasible. Likewise when possible, CDFW prefers related consultation occur in-person at the requesting tribe's office or another location preferred by the tribe. For regional activities, the Tribal Policy notes that significant decision-making authority is delegated to CDFW Regional Managers, who are the CDFW decision-makers best positioned to lead consultations and represent CDFW on these regional activities. A tribe may, however, request a meeting with the CDFW Director rather than a Regional Manager. CDFW's overarching goal during tribal consultation is to facilitate direct communication between tribal and CDFW decision makers.

2. Tribal Notification and Consultation Regarding the Project as Modified

Shortly after the Governor issued the executive order mentioned above and executive branch agencies such as CDFW began efforts to improve their communication and consultation with tribes, the California legislature amended CEQA, enacting Assembly Bill 52 in 2014 (Stats. 2014, ch. 532, §§ 1-12, amending Pub. Resources Code, § 5097.94, and adding Id., §§ 21073, 21074, 21080.3.1, 21080.3.2, 21082.3, 21083.09, 21084.2, and 21084.3) (hereafter, "AB 52"). In general, AB 52 directs CEQA lead agencies to notify tribes traditionally and culturally affiliated with a project area and, upon a tribe's request, to consult regarding project impacts and potentially feasible measures to avoid or minimize related effects to tribal cultural resources. Separate from CDFW's Tribal Policy, the tribal consultation provisions enacted with AB 52 apply to any project where a CEQA notice of preparation (NOP) is issued after July 1, 2015. (See generally Pub. Resources Code, § 21080.4.)

CDFW issued all three NOPs for the 2010 Final EIR as a lead agency years before California enacted AB 52. Indeed, CDFW approved the Project in 2010 well before the Governor issued Executive Order B-10-11, CNRA issued its policy in 2012, and CDFW issued its policy in 2014. Likewise, in taking corrective action on remand from the Supreme Court and preparing the 2017 AEA CDFW did not and it had no legal obligation

to issue an NOP under CEQA. Nevertheless, CDFW's effort to communicate and consult with tribal interests regarding the Project spans more than a decade.

As to the Project modifications proposed by the applicant in response to the California Supreme Court and CDFW's preparation of the 2017 AEA, CDFW actively sought additional input from interested tribes consistent with its Tribal Policy. On October 25, 2016, for example, CDFW sent a letter to the NAHC requesting a list of tribes that are culturally or traditionally affiliated with the Project area. The NAHC responded on October 26, 2016, with a list of 11 tribes, only one of which, the Santa Ynez Band of Chumash Indians, is federally recognized. On November 3, 2016, CDFW sent a letter to the tribes identified by the NAHC inviting tribal input on the Draft AEA and the applicant's proposed modifications to the Project as originally approved in 2010. CDFW's notification letter requested preliminary input by January 6, 2017, and asked that any tribe's request for consultation be directed by mail or email to CDFW's Tribal Liaison. CDFW's letter to the federally-recognized Santa Ynez Band of Chumash Indians invited formal government-to-government consultation.

CDFW received responses to its tribal notice letter from two of the tribes identified by the NAHC, the Fernandeno Tataviam Band of Mission Indians and the Santa Ynez Band of Chumash Indians. The Fernando Tataviam Band of Mission Indians responded through its Director for Public Relations on December 5, 2016, requesting consultation on the Project. CDFW's Tribal Liaison responded to the Fernandeno Tataviam Band of Mission Indians' consultation request by phone and email on December 6, 2016. After further email communication, the Fernandeno Tataviam Band of Mission Indians indicated by email on January 26, 2017, that it no longer had a need for formal consultation with CDFW on the Project.

The Santa Ynez Band of Chumash Indians through its Chairman responded by letter to the CDFW notification on February 13, 2017, and requested consultation on the Project. CDFW's Tribal Liaison acknowledged receipt of the letter four days later. Over the next several weeks, CDFW's Tribal Liaison worked with the Government and Legal Specialist for the Santa Ynez Band of Chumash Indians to schedule a formal consultation April 19, 2017, at the King Gillette Ranch in Calabasas. CDFW's Regional Manager for its South Coast Region and its Tribal Liaison attended the meeting. The Government and Legal Specialist for the Santa Ynez Band of Chumash Indians also participated in the consultation, along with an attorney of record that represents the Wishtoyo Foundation and Ventura Coastkeeper in ongoing litigation challenging CDFW's approval of the Project in 2010. The Santa Ynez Band of Chumash Indians expressed concern at the meeting about the Project and CDFW in response invited the Santa Ynez Band of Chumash Indians to provide additional comments on the Draft AEA. The Santa Ynez Band of Chumash Indians indicated its intent to do so within 30 days.

Following the consultation at King Gillette Ranch and beginning on May 2, 2017, CDFW's Tribal Liaison contacted the Santa Ynez Band of Chumash Indians to invite a second consultation that would include, among others, CDFW's Director and the Council Chairperson or other Council members. CDFW extended a similar invitation by letter to the Santa Ynez Band of Chumash Indians on May 24, 2017, proposing a meeting in

Sacramento or in Southern California on June 2, 2017, between the Santa Ynez Band of Chumash Indians and CDFW's Director. The Santa Ynez Band of Chumash Indians responded on June 3, 2017, seeking additional dates to meet. CDFW's Tribal Liaison responded on June 6, 2017, proposing June 12, 2017, as a date available for CDFW's Director to host a meeting with the tribe in Sacramento or, alternatively, for the parties to speak by telephone. As of the date of these findings the Santa Ynez Band of Chumash Indians has not responded to CDFW's proposal to meet on June 12, 2017.

3. CDFW Compliance With Its Tribal Policy

From CDFW's perspective, the Project as modified and related preparation of the 2017 AEA under CEQA are considered a regional activity under the Tribal Policy. In that context, CDFW requested and received a list of tribes affiliated with the Project area from the NAHC, and CDFW notified those tribes and invited consultation. Two tribes responded expressing interest in consultation, but one, the Fernandeno Tataviam of Mission Indians, determined with input from CDFW that consultation was not necessary.

As directed by the Tribal Policy, CDFW's Regional Manager for the South Coast Region and its Tribal Liaison held a consultation meeting with the Santa Ynez Band of Chumash Indians and invited additional comments to assist CDFW in its decision regarding the Project as modified and the 2017 AEA. CDFW also proposed a second consultation hosted and attended by its Director to ensure CDFW fully understood the Santa Ynez Band of Chumash Indians' concerns. After a number of invitations over weeks on behalf of CDFW's Director to meet on a number of different dates specifically, CDFW has not been able to schedule a second consultation with the Santa Ynez Band of Chumash Indians. Likewise, and notwithstanding indications from the Santa Ynez Band of Chumash Indians in April 2017 that they might submit additional information to CDFW beyond their letter on the Draft AEA, CDFW has received no such input.

CDFW finds against this backdrop that its actions to notify and consult, as appropriate, with tribal interests relative to the Project as modified and the 2017 AEA are consistent with its Tribal Policy. CDFW makes this finding with respect to its related efforts overall and with respect to the Santa Ynez Band of Chumash Indians specifically. CDFW notified and held formal consultation consistent with its Tribal Policy with the Santa Ynez Band of Chumash Indians. Likewise, CDFW invited additional input and its Director offered on multiple occasions to host or otherwise participate in a second government-to-government consultation with representatives of the Santa Ynez Band of Chumash Indians' tribal government. Importantly, though, the most recent date proposed by CDFW for a second consultation has come and gone again with no response. CDFW is proceeding, accordingly, confident with its effort to notify and consult as provided under its Tribal Policy.

Proceeding with final action regarding the Project as modified and the 2017 AEA CDFW emphasizes its commitment to and the importance of its Tribal Policy. CDFW fully supports providing tribes with meaningful opportunities to participate in decision-making processes that affect tribal interests. Tribal involvement, input, and consultation is vital to CDFW in developing robust alternatives and positive, durable outcomes for projects.

CDFW is confident that its efforts and those of the State of California generally to integrate tribes in decision-making processes will avoid or mitigate significant impacts to Tribal interests and result in better projects for all citizens of California. That has occurred here over more than a decade with CDFW serving as a lead agency for the Project.

II.

SUPPLEMENTAL FINDINGS UNDER CEQA

These CEQA findings (2017 Supplemental CEQA Findings) supplement, supersede, and incorporate by reference CDFW's 2010 CEQA Findings in two respects in response to court directives: (i) the Project's GHG emissions findings, and (ii) with respect to the elimination of mitigation measures BIO-44 and BIO-46, consistent with Fish and Game Code section 5515. Likewise, these 2017 Supplemental CEQA Findings document CDFW's compliance with CEQA's mandate that no public agency shall approve or carry out a project for which an environmental impact report has been certified, which identifies one or more significant effects on the environment, unless the agency makes one or more of the following findings:

- Changes or alterations have been required in, or incorporated into, the project which mitigate or avoid the significant effects on the environment;
- Those changes or alterations are within the responsibility and jurisdiction of another public agency and have been, or can and should be, adopted by that other agency;
- Specific economic, legal, social, technological, or other considerations, including considerations for the provision of employment opportunities for highly trained workers, make infeasible the mitigation measures or alternatives identified in the environmental impact report.

(Pub. Resources Code, § 21081, subd. (a); CEQA Guidelines, § 15091, subd. (a).)

These findings also comply with the requirement that each finding by CDFW be supported by substantial evidence in the record of proceedings, as well as accompanied by a brief explanation of the rationale for each finding. These findings to that end, supported by CDFW's administrative record of proceedings, provide the specific reasons supporting CDFW's decision to certify the 2017 AEA, in combination with the 2010 Final EIR, as adequate and complete under CEQA.

A. Global Climate Change and Greenhouse Gas Emissions

The following discussion from the 2010 CEQA Findings regarding global climate change and the project's GHG emissions is hereby deleted in its entirety:

- The text in Section VIII.A.2 addressing the topic of Global Climate Change (Effects Found to be Less Than Significant Prior to Mitigation), specifically, the bullet titled "Global Climate Change" on page 23 and the bullet titled "Global Climate Change" on page 25.
- The text in Section VIII.B starting with the final bullet on page 25 addressing "Global Climate Change Measures."

The following findings supplement and supersede the 2010 CEQA Findings regarding global climate change and the Project's GHG emissions:

Impact:

The Project will result in GHG emissions during construction and operations. During the construction phase, CDFW estimates the Project will generate a total of 193,119 metric tons (MT) of carbon dioxide equivalent (CO_{2e}), which equates to 6,437 MT CO_{2e} per year as amortized over the 30-year project life (see Table 2.3-1 of the Draft AEA), and a total of 40,059 MT CO_{2e} net change in carbon sequestration GHG emissions, which equates to 1,335 MT CO_{2e} per year as amortized over the 30-year project life (see Table 2.3-2 of the Draft AEA). During the operational phase, CDFW estimates the Project will generate 518,331 MT CO_{2e} per year at Project build-out in 2030 (see Table 2.3-3 of the 2017 Final AEA).

Accordingly, the total annual project GHG emissions is estimated to be 526,103 MT CO_{2e} per year at Project build-out based on the annual operational GHG emissions and the amortized construction and vegetation change GHG emissions (see Table 2.3-3 of the 2017 Final AEA). CDFW finds this annual GHG emissions estimate is likely conservative "because additional regulatory programs and technology will likely be developed in the future under new state mandates, which will reduce the actual GHG emissions associated with the Project at build-out." (Draft AEA, p. 2-35.)

Because the Project's GHG emissions would be a considerable contribution to cumulative emissions influencing global climate change, the applicant has proposed mitigation measures that would result in no net increase in GHG emissions. (Draft AEA, p. 2-24.) The mitigation measures presented in the 2017 AEA and summarized below have been independently reviewed and analyzed by CDFW, in consultation with ARB, and modified, where needed, from the applicant's original proposal.

With the implementation of the 13 mitigation measures summarized below, and based on the 2017 AEA and all supporting documentation, including reasonable estimates of the project's emissions given available information and modeling techniques, CDFW has determined that the Project would feasibly and reliably achieve net zero GHG emissions (2017 Final AEA Tables 2.3-4 and 2.3-5). Accordingly, CDFW finds that the Project as modified, including the final GHG mitigation measures and resulting achievement of zero-net energy emissions, will not make any or certainly no cumulatively considerable contribution to cumulative GHG emissions. With the applicant's commitment to the detailed GHG reduction measures and its commitment to net zero emissions, and with

technical and other support from ARB, CDFW hereby finds in its independent lead agency judgment that the Project's GHG impacts are less than significant under CEQA with mitigation.

Finding:

Changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant effects on the environment. (CEQA Guidelines, § 15091, subd. (a)(1); Pub. Resources Code, § 21081, subd. (a)(1).)

Those changes or alterations are within the responsibility and jurisdiction of another public agency and have been, or can and should be, adopted by that other agency. (Pub. Resources Code, § 21081, subd. (a)(2); CEQA Guidelines, § 15091, subd. (a)(2).)

Mitigation Measures:

Mitigation Measures 2-1 through 2-13 will be implemented to reduce and offset GHG emissions to net zero:

2-1: Prior to the issuance of residential building permits for the project or a portion of the project, the project applicant or its designee shall submit one or more Zero Net Energy Confirmation (ZNE) Reports (ZNE Report) prepared by a qualified building energy efficiency and design consultant to Los Angeles County for review and confirmation that the residential development covered by the ZNE Report achieves the ZNE standard specified in this mitigation measure. Specifically, a ZNE Report shall demonstrate that the residential development within the RMDP/SCP project site subject to application of Title 24, Part 6, of the California Code of Regulations has been designed and shall be constructed to achieve ZNE, as defined by CEC in its 2015 Integrated Energy Policy Report, which requires the value of the net energy produced by project renewable energy resources to equal the value of the energy consumed annually by the project using the CEC's Time Dependent Valuation metric.

A ZNE Report shall provide, at a minimum, the following information:

- ▲ Confirmation that the residential development shall comply with Title 24, Part 6 building standards that are operative at the time of building permit application.
- ▲ Identification of additional measures or building performance standards that shall be relied upon to achieve the ZNE standard (as defined above), assuming ZNE is not already achieved by meeting the operative Title 24, Part 6 building standards.

In demonstrating that the residential development achieves the ZNE standard, the ZNE Report may:

- ▲ Evaluate multiple buildings and/or land use types. For example, a ZNE Report may cover all of the residential and non-residential buildings within a neighborhood/community, or a subset thereof, including an individual building.
- ▲ Rely upon aggregated or community-based strategies to support its determination that the subject buildings are designed to achieve ZNE. For example, shortfalls in renewable energy generation for one or more buildings may be offset with excess renewable generation from one or more other buildings. As such, a ZNE Report could determine a building is designed to achieve ZNE based on aggregated or community-based strategies even if the building on its own may not be designed to achieve ZNE.
- ▲ Make reasonable assumptions about the estimated electricity and natural gas loads and energy efficiencies of the subject buildings.
- ▲ If interconnection of the project's renewable generation is not sufficient to allow compliance with the ZNE standard for the project, or a portion of the project, then Los Angeles County shall allow the project applicant or its designee to achieve an equivalent level of GHG emissions reductions to mitigate such shortfall by providing 5.1 MT CO_{2e} of GHG reductions for every megawatt-hour of renewable energy generation that would have been needed to achieve the ZNE standard for the project, or a portion of the project, as demonstrated in the ZNE Report.

2-2: Prior to the issuance of building permits for commercial development and private recreation centers, and prior to the commencement of construction for the public facilities, respectively, for the project or a portion of the project the project applicant or its designee shall submit one or more Zero Net Energy Confirmation Reports (ZNE Report) prepared by a qualified building energy efficiency and design consultant to Los Angeles County for review and confirmation that the commercial development, private recreation centers, and/or public facilities covered by the ZNE Report achieve the ZNE standard specified in this mitigation measure. Specifically, a ZNE Report shall demonstrate that the commercial development, private recreation centers, and public facilities within the RMDP/SCP project site subject to application of Title 24, Part 6, of the California Code of Regulations have been designed and shall be constructed to achieve ZNE, as defined by CEC in its 2015 Integrated Energy Policy Report, which requires the value of the net energy produced by project renewable energy resources to equal the value of the energy consumed annually by the project using the CEC's Time Dependent Valuation metric.

("Commercial development" includes retail, light industrial, office, hotel, and mixed-use buildings. "Public facilities" are fire stations, libraries, and elementary, middle/junior high and high schools.)

A ZNE Report shall provide, at a minimum, the following information:

- ▲ Confirmation that the commercial development, private recreation centers, and/or public facilities shall comply with Title 24, Part 6 building standards that are operative at the time of building permit application.
- ▲ Identification of additional measures or building performance standards that shall be relied upon to achieve the ZNE standard (as defined above), assuming ZNE is not already achieved by meeting the operative Title 24, Part 6 building standards.

In demonstrating that the commercial development, private recreation centers, and/or public facilities achieves the ZNE standard, the ZNE Report may:

- ▲ Evaluate multiple buildings and/or land use types. For example, a ZNE Report may cover all of the residential and non-residential buildings within a neighborhood/community, or a subset thereof, including an individual building.
- ▲ Rely upon aggregated or community-based strategies to support its determination that the subject buildings are designed to achieve ZNE. For example, short falls in renewable energy generation for one or more buildings may be offset with excess renewable generation from one or more other buildings. As such, a ZNE Report could determine a building is designed to achieve ZNE based on aggregated or community-based strategies even if the building on its own may not be designed to achieve ZNE.
- ▲ Make reasonable assumptions about the estimated electricity and natural gas loads and energy efficiencies of the subject buildings.
- ▲ If interconnection of the project's renewable generation is not sufficient to allow compliance with the ZNE standard for the project, or a portion of the project, then Los Angeles County shall allow the project applicant or its designee to achieve an equivalent level of GHG emissions reductions to mitigate such shortfall by providing 5.1 MT CO_{2e} of GHG reductions for every megawatt-hour of renewable energy generation that would have been needed to achieve the ZNE standard for the project, or a portion of the project, as demonstrated in the ZNE Report.

2-3: Prior to the issuance of private recreation center building permits, the project applicant or its designee shall submit swimming pool heating design plans to Los Angeles County for review and approval. The design plans shall demonstrate that all swimming pools located at private recreation centers on the RMDP/SCP project site have been designed and shall be constructed to use solar water heating or other technology with an equivalent level of energy efficiency.

2-4: Prior to the issuance of residential building permits, the project applicant or its designee shall submit building design plans, to Los Angeles County for review and approval, which demonstrate that each residence within the RMDP/SCP project

site subject to application of Title 24, Part 6, of the California Code of Regulations shall be equipped with a minimum of one single-port electric vehicle (EV) charging station. Each charging station shall achieve a similar or better functionality as a Level 2 charging station.

Additionally, prior to the issuance of the first building permit for the RMDP/SCP project site, the project applicant or its designee shall establish and fund a dedicated account for the provision of subsidies for the purchase of ZEVs, as defined by ARB. The project applicant or its designee shall provide proof of the account's establishment and funding to Los Angeles County.

The dedicated account shall be incrementally funded, for each village-level project, in an amount that equals the provision of a \$1,000 subsidy per residence — on a first-come, first-served basis — for 65 percent of the village's total residences subject to application of Title 24, Part 6, of the California Code of Regulations.

- 2-5: Prior to the issuance of commercial building permits, the project applicant or its designee shall submit building design plans, to Los Angeles County, which demonstrate that the parking areas for commercial buildings on the RMDP/SCP project site shall be equipped with EV charging stations that provide charging opportunities to 7.5 percent of the total number of required parking spaces. ("Commercial buildings" include retail, light industrial, office, hotel, and mixed-use buildings.)

The EV charging stations shall achieve a similar or better functionality as a Level 2 charging station. In the event that the installed charging stations use functionality/technology other than Level 2 charging stations, the parameters of the mitigation obligation (i.e., number of parking spaces served by EV charging stations) shall reflect the comparative equivalency of Level 2 charging stations to the installed charging stations on the basis of average charge rate per hour. For purposes of this equivalency demonstration, Level 2 charging stations shall be assumed to provide charging capabilities of 25 range miles per hour.

- 2-6: The project applicant-submitted Newhall Ranch Transportation Demand Management Plan (TDM Plan), located in Final AEA Appendix 7, shall be implemented to reduce VMT resulting from project build out with oversight from Los Angeles County. The TDM Plan is designed to influence the transportation choices of residents, students, employees, and visitors, and serves to enhance the use of alternative transportation modes both on and off the project site through the provision of incentives and subsidies, expanded transit opportunities, bikeshare and carshare programs, technology-based programs, and other innovative means. Village-level implementation of relevant elements of the TDM Plan shall proceed in accordance with village-level applicability supplements prepared by a qualified transportation engineer that are reviewed and considered by Los Angeles County when approving tentative subdivision maps for land developments that are part of the project.

Accordingly, the TDM Plan identifies key implementation actions that are critical to the effectiveness of the VMT-reducing strategies, as well as timeline and phasing requirements, monitoring standards, and performance metrics and targets tailored to each of the strategies.

In accordance with the TDM Plan, a non-profit Transportation Management Organization (TMO) or equivalent management entity shall be established to provide the services required, as applicable.

2-7: Prior to the issuance of traffic signal permits, the project applicant or its designee shall work with Los Angeles County and the California Department of Transportation (Caltrans), as applicable, to facilitate traffic signal coordination along:

- ▲ State Route 126 from the Los Angeles County line to the Interstate 5 north-bound ramps;
- ▲ Chiquito Canyon Road, Long Canyon Road, and Valencia Boulevard within the RMDP/SCP project site;
- ▲ Magic Mountain Parkway from Long Canyon Road to the Interstate 5 north-bound ramps; and
- ▲ Commerce Center Drive from Franklin Parkway to Magic Mountain Parkway.

To effectuate the signal synchronization and specifically the operational and timing adjustments needed at affected traffic signals, the project applicant or its designee shall submit traffic signal plans for review and approval, and/or pay needed fees as determined by Los Angeles County or Caltrans, as applicable.

A majority of the signals that will be synchronized will be new signals constructed/installed by the project. Thus, for these signals, the project will provide the necessary equipment at the signal controller cabinet, as well as within the new roadways themselves, to enable and facilitate synchronization. The project is responsible for paying 100 percent of the applicable fee amount for the signal synchronization work, with assurance that the necessary funding will be available to fully implement this measure.

2-8: Consistent with the parameters of the Newhall Ranch TDM Plan, the project applicant or its designee shall provide Los Angeles County with proof that funding has been provided for the purchase, operation and maintenance of zero emission school buses in furtherance of the school bus program identified in the project's TDM Plan. The proof of funding shall be demonstrated incrementally as the school bus program is paced to village- level occupancy and student enrollment levels.

2-9: Prior to the issuance of the first 2,000th residential building permit within the RMDP/SCP project site and every 2,000th residential building permit thereafter, the project applicant or its designee shall provide Los Angeles County with proof

that it has provided a subsidy of \$100,000 per bus for the replacement of up to 10 diesel or compressed natural gas transit buses with zero emission buses to the identified transit provider(s).

2-10: Prior to issuing grading permits for village-level development within the RMDP/SCP project site, Los Angeles County shall confirm that the project applicant or its designee shall fully mitigate the construction and vegetation change GHG emissions associated with each such grading permit (the "Incremental Construction GHG Emissions") by relying upon one of the following compliance options, or a combination thereof, in accordance with the project applicant-submitted Newhall Ranch GHG Reduction Plan (GHG Reduction Plan; see Final AEA, Appendix 6):

- ▲ Directly undertake or fund activities that reduce or sequester GHG emissions ("Direct Reduction Activities") and retire the associated "GHG Mitigation Credits" in a quantity equal to the Incremental Construction GHG Emissions. A "GHG Mitigation Credit" shall mean an instrument issued by an Approved Registry that satisfies the performance standards set forth in the GHG Reduction Plan and shall represent the estimated reduction or sequestration of one metric tonne of carbon dioxide equivalent that will be achieved by a Direct Reduction Activity that is not otherwise required (CEQA Guidelines § 15126.4(c)(3)). An "Approved Registry" is an accredited carbon registry as defined by the GHG Reduction Plan; or
- ▲ Obtain and retire "Carbon Offsets" in a quantity equal to the Incremental Construction GHG Emissions. "Carbon Offset" shall mean an instrument issued by an Approved Registry that satisfies the performance standards set forth in the GHG Reduction Plan and shall represent the past reduction or sequestration of one metric tonne of carbon dioxide equivalent achieved by a Direct Reduction Activity or any other GHG emission reduction project or activity that is not otherwise required (CEQA Guidelines § 15126.4(c)(3)).

2-11: Prior to the issuance of building permits for development within the RMDP/SCP project site, the project applicant or its designee shall undertake or fund Direct Reduction Activities pursuant to the Building Retrofit Program ("Retrofit Program"), as included in Final AEA Appendix 13, to improve the energy efficiency of existing buildings located primarily in disadvantaged communities (as defined in the Retrofit Program). The project applicant or its designee shall retire GHG Mitigation Credits or Carbon Offsets issued by an Approved Registry based on such Direct Reduction Activities in a quantity equal to the following (together, the "Retrofit Reduction Requirement") as included in Final AEA Appendix 13:

- ▲ For the residential portion of a building permit application, the product of the planned number of residential units for the village-level project multiplied by 0.0377 MTCO_{2e};

- ▲ For the commercial portion of a building permit application, the product of the planned commercial development per thousand commercial square feet multiplied by 0.0215 MTCO_{2e}.

Building retrofits covered by the Retrofit Program can include, but are not limited to: cool roofs, solar panels, solar water heaters, smart meters, energy efficient lighting (including, but not limited to, light bulb replacement), energy efficient appliances, energy efficient windows, pool covers, insulation, and water conservation measures.

The Retrofit Program shall be implemented within the geographic area defined to include Los Angeles County and primarily within disadvantaged communities, as defined by the Retrofit Program, or in other areas accepted by the Los Angeles County Planning Director.

- 2-12: Prior to the issuance of the first building permit for the RMDP/SCP project site, the project applicant or its designee shall provide Los Angeles County with proof of installation of EV charging stations capable of serving 20 off-site parking spaces. Thereafter, the project applicant or its designee shall provide Los Angeles County proof of installation of EV charging stations prior to the issuance of residential and commercial building permits per the following ratios: one (1) off-site parking space shall be served by an electric vehicle charging station for every 30 dwelling units, and one (1) off-site parking space shall be served by an electric vehicle charging station for every 7,000 square feet of commercial development. ("Commercial development" includes retail, light industrial, office, hotel and mixed-use buildings.) Off-site EV charging stations capable of servicing 2,036 parking spaces would be required if the maximum allowable development facilitated by the RMDP/SCP project occurs; fewer EV charging stations would be required if maximum build-out under the RMDP/SCP project does not occur.

The EV charging stations shall achieve a similar or better functionality as a Level 2 charging station and may service one or more parking spaces. In the event that the installed charging stations use functionality/technology other than Level 2 charging stations, the parameters of the mitigation obligation (i.e., number of parking spaces served by EV charging stations) shall reflect the comparative equivalency of Level 2 charging stations to the installed charging stations on the basis of average charge rate per hour. For purposes of this equivalency demonstration, Level 2 charging stations shall be assumed to provide charging capabilities of 25 range miles per hour.

The EV charging stations shall be located within the geographic area defined to include Los Angeles County. The EV charging stations shall be in areas that are generally accessible to the public, such as areas that include, but are not limited to, retail centers, employment centers and office complexes, recreational facilities, schools, and other categories of public facilities.

2-13: In addition to Mitigation Measures 2-1 through 2-12, the project applicant or its designee shall offset GHG emissions to zero by funding or undertaking Direct Reduction Activities or, if necessary, obtaining Carbon Offsets through the Newhall Ranch GHG Reduction Plan. The project applicant-submitted Newhall Ranch GHG Reduction Plan focuses on achieving GHG reductions or sequestration through the Direct Reduction Activities in coordination with an Approved Registry, such as the Climate Action Reserve. If these Direct Reduction Activities do not achieve the necessary amount of GHG reductions, the project applicant or its designee can obtain Carbon Offsets issued by an Approved Registry.

Prior to issuing building permits for development within the RMDP/SCP project site, Los Angeles County shall confirm that the project applicant or its designee shall fully offset the project's remaining (i.e., post implementation of Mitigation Measures 2-1 through 2-12) operational GHG emissions over the 30-year project life associated with each such building permit (the "Incremental Operational GHG Emissions") by relying upon one of the following compliance options, or a combination thereof, in accordance with the Newhall Ranch GHG Reduction Plan:

- ▲ Undertake or fund Direct Reduction Activities that are estimated to result in GHG Mitigation Credits, as described in the GHG Reduction Plan, and retire such GHG Mitigation Credits in a quantity equal to the Incremental Operational GHG Emissions;
- ▲ Undertake or fund Direct Reduction Activities and retire the associated Carbon Offsets in a quantity equal to the Incremental Operational GHG Emissions; or
- ▲ If necessary, as determined by the Los Angeles County Planning Director in accordance with the GHG Reduction Plan, to fully offset Incremental Operational GHG Emissions, the project applicant or its designee may purchase and retire Carbon Offsets that have been issued by an Approved Registry in a quantity equal to the Incremental Operational GHG Emissions.

Compliance with MM 2-13 shall be demonstrated incrementally prior to obtaining building permits.

The Incremental Operational GHG Emissions shall be equal to the sum of (1) the number of proposed residential units covered by the applicable building permit multiplied by a "GHG Residential Ratio" and (2) every thousand square feet of proposed commercial development covered by the applicable building permit multiplied by a "GHG Commercial Ratio." ("Commercial development" includes retail, light industrial, office, hotel, and mixed-use buildings.) GHG Residential Ratio and GHG Commercial Ratio shall mean the emissions ratios in MTCO_{2e} set forth in the applicable CEQA analysis completed by the County of Los Angeles for a specific village-level project to ensure that the related GHG emissions are reduced to zero.

Project Applicant-Proposed Supplemental Commitment: In addition to the installation of EV charging stations required by Mitigation Measures 2-5 and 2-12, and although not required for the Project to achieve net zero GHG emissions, the project applicant or its designee shall provide Los Angeles County with proof of installation of EV charging stations prior to the issuance of residential and commercial building permits per the following ratios: one (1) parking space shall be served by an electric vehicle charging station for every 50 dwelling units, and one (1) parking space shall be served by an electric vehicle charging station for every 15,900 square feet of commercial development. (“Commercial development” includes retail, light industrial, office, hotel and mixed-use buildings.) EV charging stations capable of servicing 1,010 parking spaces would be required if the maximum allowable development facilitated by the RMDP/SCP project occurs; fewer EV charging stations would be required if maximum build-out under the RMDP/SCP project does not occur.

The EV charging stations shall achieve a similar or better functionality as a Level 2 charging station and may service one or more parking spaces. In the event that the installed charging stations use functionality/technology other than Level 2 charging stations, the parameters of the mitigation obligation (i.e., number of parking spaces served by EV charging stations) shall reflect the comparative equivalency of Level 2 charging stations to the installed charging stations on the basis of average charge rate per hour. For purposes of this equivalency demonstration, Level 2 charging stations shall be assumed to provide charging capabilities of 25 range miles per hour.

The EV charging stations shall be located either on the project site or within the jurisdictional area of the Southern California Association of Governments. The EV charging stations shall be areas that are generally accessible to the public, such as areas that include, but are not limited to, retail centers, employment centers and office complexes, recreational facilities, schools, and other categories of public facilities.

See 2017 Final AEA Sections 1.4.1, 2.3.3, and 2.4.4, and the Mitigation Monitoring and Reporting Plan, for a detailed explanation of each Mitigation Measure and a description of how each Mitigation Measure would contribute to net GHG emissions reductions.

As to Mitigation Measures 2-10 and 2-13, all GHG Mitigation Credits and Carbon Offsets used for compliance with Mitigation Measures 2-10 and 2-13 must meet specific performance standards identified in Section IX of the GHG Reduction Plan. Each GHG Mitigation Credit and Carbon Offset must be issued by an Approved Registry upon confirmation by an independent, accredited third party that the Direct Reduction Activities have been implemented, meet the Approved Registry’s rules, and accord with the quantification methodology adopted by that Approved Registry for the Direct Reduction Activity in question. Mitigation Measures 2-10 and 2-13 require demonstration of compliance through the retirement of GHG Mitigation Credits and/or Carbon Offsets. Retiring a GHG Mitigation Credit or Carbon Offset eliminates it from further use and avoids any double counting. CDFW has determined that, based on the analysis

presented in the 2017 Final AEA and the performance standards established by the GHG Reduction Plan, the GHG Mitigation Credits and Carbon Offsets meet the requirements of CEQA for mitigating the project's GHG emissions, including CEQA Guidelines section 15126.4(c)(3) and (c)(4) (allowing GHG mitigation by "[o]ff-site measures, including offsets that are not otherwise required" and "[m]easures that sequester greenhouse gases").

Further, as required by the GHG Reduction Plan, the Project applicant must implement the GHG Reduction Plan so that, in the aggregate and taking into account all on-site and off-site GHG reductions achieved by Mitigation Measures 2-1 through 2-13, along with the project applicant's supplemental commitment for additional EV charging stations identified in the Final AEA (as described above), the project shall meet, at full buildout, the following Locational Performance Standards: no less than 68 percent of the GHG reductions will be achieved within California, no less than 80 percent of the GHG reductions will be achieved within the United States, and no more than 20 percent of the GHG reductions will be achieved outside of the United States. The Locational Performance Standards apply at the project level, not to an individual village-level project. Recognizing the international Locational Performance Standard as a point of emphasis for CDFW as lead agency, the project applicant will identify and implement comparable emissions reduction opportunities in California and the United States to reduce the use of international reductions below the 20% of the overall project emissions reductions allowed by the International Locational Performance Standard, if such opportunities are reasonable after accounting for cost, availability, timing, and other relevant information. This determination shall be made by the project applicant, provided the reduction activities otherwise comply with the requirements of this GHG Reduction Plan.

Explanation:

CDFW hereby finds that adoption and implementation of Mitigation Measures 2-1 through 2-13 would reduce the project's GHG emissions by 526,103 MT CO_{2e} per year (AEA Tables 2.3-4 and 2.3-5). These measures mitigate the Project's GHG emissions, resulting in no net contributions of GHG emissions from the Project, or net zero GHG emissions (2017 Final AEA Tables 2.3-4 and 2.3-5). Because the Project would result in no net increase of GHG emissions after implementation of mitigation measures, there would be no contribution of GHG emissions to cumulative GHG emissions influencing global climate change, and impacts would be less than significant.

In addition, because the Project would result in no net increase of GHG emissions, it would not conflict with any plan, policy, or regulation adopted for the purpose of reducing the emissions of GHGs. The State, and by extension regional and local climate policy, is rooted in achieving an emissions level below the reference year of 1990 and is based on levels established by scientific evidence to avoid the most adverse impacts of climate change. Therefore, relevant plans, such as ARB's Scoping Plan, Southern California Association of Government's RTP/SCS, and Los Angeles County's Community Climate Action Plan, all establish non-zero targets (i.e., some level of positive net emissions above existing conditions for land developments to accommodate planned growth) to achieve future GHG emissions targets. By achieving net zero GHG emissions, the feasibility and

reliability of which has been demonstrated in the analysis set forth in the 2017 Final AEA, the Project would not conflict with any relevant plan, policy, or regulation adopted for the purpose of reducing GHG emissions. The impact is less than significant.

Further, CDFW has determined that a 30-year project life is the appropriate period to use to evaluate the Project's GHG emissions inventory and the applicant's commitment to net zero emissions. The 30-year project life represents the current reasonable limit of scientific and evidentiary data for the project, given current modeling tools, the changing regulatory structure, the level of uncertainty beyond 2050 with respect to regulatory programs mandating further reductions in GHG emissions, and other available information.

CDFW finds support for its reasonable reliance on the 30-year Project life on the following additional grounds:

1. The California Air Resources Board (ARB), the State agency charged with the responsibility and expertise to administer the State's GHG emissions policies (Health & Saf. Code, § 38510), supports the 30-year project life, consistent with its own practice. ARB, for example, has approved the use of a 30-year project life when certifying AB 900 "leadership projects," which are required to mitigate all project-related GHG emissions to net zero. (See Pub. Resources Code, §§ 21178-21189.3, 21183, subd. (c).) ARB has also identified this Project as a recent example of a sustainable land use development that has "demonstrated that it is feasible to design projects that achieve zero net additional GHG emissions" (see page 136 of ARB's *The 2017 Climate Change Scoping Plan Update*).
2. Guidance from the South Coast Air Quality Management District (SCAQMD) supports using a 30-year project life to analyze a project's GHG emissions under CEQA.
3. A 30-year project life is widely used in CEQA documents by expert consultants and lead agencies — including Los Angeles County, the local land use agency with jurisdiction over the project site — for analyzing a project's GHG emissions under CEQA.
4. Executive Order S-3-05 established 2050 as the target year for an 80 percent reduction in statewide GHG emissions below 1990 levels. The regulatory framework for achieving this target will require transforming the State's transportation, energy, and industrial sectors. As such, the future GHG emission profiles for these sectors are not generally known. In addition, modeling emissions significantly beyond 2050 requires speculation about GHG emissions that is not knowable or known. Nevertheless, in an effort to extend the project's modeling window, the project's mitigation period runs 30 years after the build-out year of 2030, effectively stretching the modeling window and mitigation period 10 years beyond the 2050 horizon set forth in the State's climate policy. Given known and knowable information beyond 2050, a 30-year project life (which extends 10 years beyond the target year established by the

referenced Executive Order S-3-05) has been established as the period of time for which GHG emissions can be reasonably estimated without undue speculation.

5. The modeling analysis likely overestimates the project's GHG emissions because the modeling does not take into account reasonably foreseeable regulatory programs and other governmental strategies and technological factors that likely will result in further reductions in GHG emissions levels throughout California that are needed to achieve the 2030 and 2050 targets.

In using the 30-year project life, CDFW recognizes that the residential and non-residential development facilitated by the Project will likely exist beyond 30 years. During and after the 30-year project life period, the Project will be subject to a range of existing and future regulatory standards and policies applicable to the built environment. California is expected to implement numerous additional policies, regulations and programs to reduce statewide emissions to achieve the GHG reduction goals of SB 32 and Executive Order S-3-05. CDFW has exercised its discretion to determine that a 30-year project life is reasonable and supported by the substantial evidence discussed in the 2017 Final AEA.

In addition, CDFW has had ongoing discussions and consultation with its consultant and technical staff at ARB concerning the adequacy and completeness of the technical GHG analysis and mitigation provided in both the Draft AEA and Final AEA, technical appendices and responses to comments. As memorialized in a letter from the ARB to CDFW, dated November 3, 2016, ARB expressed its opinion that the Draft AEA "provides an adequate technical basis to determine that the project would not result in any net additional GHG emissions after the mitigation measures are fully implemented." ARB reiterated the same view in a letter to CDFW dated June 7, 2017, indicating the 2017 AEA and its related Greenhouse Gas Reduction Plan provide an adequate "technical basis for CDFW to find, in its lead agency discretion ..., that the project as currently proposed will not result in any net additional greenhouse gas emissions after identified mitigation measures are fully implemented."

Finally, in determining the Project's GHG emissions are not significant for purposes of CEQA, CDFW has exercised its independent judgment and discretion as a lead agency. CDFW has used its best effort in good faith to find out and disclosure what it feasibly can about the Project's emissions, and the substance and details of the applicant's commitment to net zero. These are complex and technical scientific issues being considered in an evolving regulatory context. Likewise, the tools and metrics being used to inventory emissions and gauge effects are quickly evolving. The 2017 AEA in this context, in combination with, among other things, the 2010 EIR, provide a sufficient degree of analysis to meaningfully inform CDFW's determination that the Project's GHG emissions will not be significant under CEQA. That determination is supported by ARB as described above, particularly with respect to the duration and effectiveness of Newhall Land's commitment to net zero. CDFW is making its significance determination grounded in current science and technical knowledge in a field of study that will inevitably continue to evolve, including what it means to achieve net zero, how that occurs, and what tools and science informs those inquiries. CDFW makes its determination today as a lead

agency recognizing this important context. CDFW's finds the GHG emissions from the Project as modified will be less than significant under CEQA.

B. Unarmored Threespine Stickleback

Impact:

The applicant has proposed modified design and construction methods for the Project's bridges and bank stabilization features to avoid impacts to unarmored threespine stickleback. With respect to those modifications, the 2017 AEA addresses related impacts from: (i) bridge construction, maintenance, and operation; (ii) construction, operation, and demobilization of temporary haul route bridges; and (iii) bank stabilization construction. As to the first impact, as originally designed, construction of the permanent bridges at Commerce Center Drive and Long Canyon Road would have resulted in installation of bridge support piers within the Santa Clara River channel, which provides habitat for the unarmored threespine stickleback. After the bridge piers are installed outside of the wetted channel during the dry season, these locations could become inundated following storm events during the rainy season. Based on hydraulic modeling and analysis of expected fish behavior, scour depressions around and behind the bridge piers that could result after medium to heavy river flows would not result in stranding of unarmored threespine stickleback. This impact is less than significant and, therefore, no mitigation is necessary.

Construction and long-term maintenance activities within the wetted channel (as defined by the estimated high-flow condition during the dry-season when the activities would occur), increased pH in the water (which may affect water quality due to contact with uncured concrete), and falling construction debris from bridge decks into the water could lead to direct mortality or injury to unarmored threespine stickleback. These construction and long-term maintenance activities would have a potentially significant impact without mitigation. In response to the Supreme Court decision and Court of Appeal opinion on remand, the Project applicant has proposed to modify the bridge design, construction methods, and long-term maintenance activities as mitigation to avoid take of unarmored threespine stickleback. Impacts to unarmored threespine stickleback from bridge construction, maintenance, and operation would be less than significant with these mitigation measures.

As to the second identified impact, as originally designed, construction and operation of the temporary haul route bridges would have resulted in installation of bridge support piers within the Santa Clara River channel that provides habitat for the unarmored threespine stickleback. Based on the Project modifications, the temporary haul route bridges would be installed in a manner that eliminates the need for any related construction activity in the wetted channel of the Santa Clara River. Vibratory pile driving methods will be used to install haul route bridge support piles, however, vibratory pile driving is not expected to injure or disturb unarmored threespine stickleback. This impact is less than significant and, therefore, no mitigation is needed.

Construction activities such as accidental entry into the wetted channel, method and timing of installation of the decks and falling construction debris from bridge decks into

the water, could lead to direct mortality or injury to unarmored threespine stickleback. This would be a potentially significant impact without mitigation. The revised construction, operation, and demobilization of temporary haul route bridges do not cause or create any other potentially significant impacts not already addressed in the 2010 Final EIR. The Project applicant has proposed to modify temporary haul route bridge design and construction methods as mitigation to avoid impacts or take of unarmored threespine stickleback. Impacts to unarmored threespine stickleback from temporary haul route bridges would be less than significant with the mitigation measures identified in the 2017 Final AEA and below.

As to the third identified impact, as originally designed, construction of the bank stabilization would occur adjacent to or within the Santa Clara River, which provides habitat for the unarmored threespine stickleback. The applicant has proposed to modify bank stabilization methods as mitigation to avoid impact to or the prospect of take of unarmored threespine stickleback. Impacts to unarmored threespine stickleback from modified bank stabilization methods would be less than significant with the mitigation measures identified in the Final AEA and below.

In addition, CDFW assessed previously identified impacts in the 2010 Final EIR, and determined that no new significant environmental impacts and no substantial increase in the severity of previously identified significant impacts to unarmored threespine stickleback would occur. Further, CDFW determined that impacts resulting from other Project components and impacts to all other biological resources remain adequate as analyzed in the 2010 Final EIR. As to those other impacts, the 2010 Final EIR was upheld in the above-referenced court decisions; therefore, such impacts were not further evaluated in the 2017 Final AEA.

Findings:

Changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant effects on the environment. (14 Cal. Code Regs., § 15091(a)(1); Pub. Resources Code, § 21081(a)(1).)

Those changes or alterations are within the responsibility and jurisdiction of another public agency and have been, or can and should be, adopted by that other agency. (Pub. Resources Code, § 21081(a)(2); 14 Cal. Code Regs., § 15091(a)(2).)

Mitigation Measures:

Mitigation 3-1: Bridge Construction, Maintenance, and Operation

The applicant, or its designated general contractor, shall implement the following measures to avoid contact with the wetted channel, which would avoid affecting unarmored threespine stickleback.

- 3-1a: The project applicant, or its designated general contractor, shall implement the PDFs and regulatory measures as incorporated into the project's bridge and bank stabilization designs.

- 3-1b: The mandated Worker Environmental Awareness Program (Mitigation Measure BIO-52 from the 2010 Final EIR) shall include a discussion regarding restriction of access to the wetted channel of the Santa Clara River and repercussions if encroachment occurs.
- 3-1c: Prior to the commencement of construction activities, a qualified biologist shall survey the proposed work locations to confirm that the construction zone is outside the wetted channel of the river and that no work takes place where fish may be affected.
- 3-1d: During permanent bridge construction, a qualified biologist shall monitor all activities that are a threat to adjacent natural habitats or nearby species and prevent equipment, personnel, or debris from entering or making contact with the wetted channel of the river.
- 3-1e: A clear weather window, defined for this project as a 40 percent chance or less of 0.10 inches or greater of precipitation in the next 48 hours as forecasted by NOAA, shall be required for the scheduling of any bridge or bank stabilization-related concrete pours. If a bridge or bank stabilization-related concrete pour is in progress, and an un-forecasted rain event occurs, bridge or bank stabilization-related concrete pours shall be suspended.
- 3-1f: During all storm events (including summer rains), a monitor shall inspect work sites to make sure that site is secure and that flooding does not cause tarps to break or diversion drains to become plugged, potentially allowing construction materials and debris to flow into the river.
- 3-1g: Precautionary spill containment devices shall be deployed and maintained during any pouring of concrete related to the bridge structure where released materials or storm water runoff that may have come in contact with uncured concrete could be released to the wetted channel of the Santa Clara River. Containment may be integrated into the K-rail barrier along the perimeter of the Work Zone or may be underslung or integrated into the bridge structure itself (such as storm drain system for the roadway that is directed to a water quality treatment facility within the development areas north or south of the bridge crossing).
- 3-1h: A K-rail construction barrier shall be deployed between the bridge construction work zone and the wetted channel of the Santa Clara River. A discussion of access restrictions shall be included in the required Worker Environmental Awareness Program training (Mitigation Measure BIO-52 from the 2010 Final EIR).
- 3-1i: Spill containment shall be deployed and maintained during CIDH pile construction, bridge column construction, cast-in-place girder construction, bridge deck pours, and any other pouring of concrete related to the bridge structure where released materials or storm water runoff that may have come in contact with uncured concrete could be released to the wetted channel of the Santa Clara River. Containment shall be integrated into the K-rail barrier along the perimeter of the

work zone or underslung tarp or integrated into the bridge structure itself (such as storm drain system for the roadway that is directed to a water quality treatment facility within the development areas north or south of the bridge crossing).

- 3-1j: To prevent construction debris from falling into the Santa Clara River during installation of bridge decks, the deck areas shall be fitted with an under-slung debris tarp, debris platform, or equivalent protection, extending at least 50 feet beyond the width of the wetted channel. The project applicant or its designee shall perform periodic maintenance and inspection to confirm that the debris catchment system is performing correctly.
- 3-1k: To ascertain that water quality is not being affected by bridge and bank stabilization-related concrete pouring activities, the project applicant or its designee shall monitor the water quality at points, upstream, downstream, and immediately adjacent to the construction work zone daily during concrete pouring operations and report the results monthly, or as directed, to CDFW. Key parameters to be monitored include pH and turbidity.
- 3-1l: All bridge maintenance and repair activities, as described in the RMDP Maintenance Manual, that have the potential to affect the wetted channel of the Santa Clara River shall adhere to the dry season window, as defined for this project, as June 1 through September 30, and shall completely avoid the Santa Clara River wetted channel when performing maintenance activities. All measures implemented during original bridge construction shall also be implemented to avoid accidental contact, spills, or falling debris into the wetted channel. In the future, if the wetted portion of the Santa Clara River shifts in location (for example, in response to a flood event that alters the wetted channel alignment), all maintenance and repair activities shall also be required occur outside of the wetted channel.

Mitigation 3-2: Construction, Operation, and Demobilization of Temporary Haul Route Bridges

The applicant, or its designated general contractor, shall implement the following measures to avoid unarmored threespine stickleback.

- 3-2a: Implement Mitigation Measure 3-1a, 3-1b, and 3-1f.
- 3-2b: Prior to the commencement of construction activities, a qualified biologist shall survey the proposed work locations to confirm that the construction zone is outside the wetted channel of the river, that the proposed vibratory pile installation locations are at least 10 feet away from the wetted channel, and that no work takes place where unarmored threespine stickleback may be affected.
- 3-2c: Vibratory piles for the temporary haul route bridges shall be installed no closer than 10 feet to the wetted channel of the Santa Clara River, as determined by survey at the time piles are to be installed, and shall only be removed by vibratory methods if the wetted channel is at least 10 feet away.

- 3-2d: No construction activities or personnel shall occur near the edge of the wetted channel that would have potential to destabilize low flow channel bank. A set-back from the edge of the top of bank for a horizontal distance that is twice the bank height (2 horizontal: 1 vertical) shall be maintained to prevent collapsing the bank of the low flow channel.
- 3-2e: During temporary haul route bridge construction and demobilization, a qualified biologist shall monitor all activities that are a threat to adjacent natural habitats or nearby species and prevent equipment, personnel, or debris from entering or making contact with the wetted channel of the river.

Mitigation 3-3: Bank Stabilization Construction

The applicant or its designated contractor shall implement the following measures:

- 3-3a: Implement Mitigation Measure 3-1a, 3-1b, 3-1e, 3-1f, and 3-1k.
- 3-3b: Prior to the commencement of bank stabilization construction activities, a qualified biologist shall survey the proposed work locations to confirm that the construction zone is outside the wetted channel of the river, that construction BMPs are installed prior to construction, and that no work takes place where fish may be affected.
- 3-3c: Bank stabilization construction at the San Jose Flats area of Mission Village is restricted to the dry season, as defined as between June 1 and September 30 to preclude the construction work zone from being inundated by seasonal flood flows.
- 3-3d: Bank stabilization construction locations susceptible to winter flood flows shall be conducted from May 1 through November 30, when winter flood flows do not occur on the Santa Clara River. Other bank stabilization areas not at risk of flood flows shall be constructed year-round.
- 3-3e: Although a late-spring or early fall flood event is not expected to occur, the project applicant or its designated contractor shall implement Perimeter Best Management Practices, as required under the Environmental Protection Agency's Construction National Pollutant Discharge Elimination System permit, which would deflect minor flows (less than 12 inches deep, and less than 8 fps velocities) from entering bank protection construction work zones
- 3-3f: The project applicant or its designee shall develop a Construction Groundwater Dewatering Plan for those areas (i.e., bank stabilization areas) in close proximity to stream flow and submit to CDFW for approval. The plan shall include the following measures and be conducted during construction groundwater dewatering activities:
- Operational restriction on dewatering addressed in the 2010 Final EIR require that any dewatering be conducted in a manner that does not affect river flow, and these same restrictions shall be observed going forward. Bank stabilization dewatering shall be implemented in a manner that (1) does not create

temporary wetted channel habitat suitable for stickleback; (2) does not diminish existing river flow, and therefore does not result in stranding of unarmored threespine stickleback or other fish; and (3) does not introduce pollutants to surface waters.

- Dewatering activities shall not involve direct removal of surface water from, or discharge to the Santa Clara River. Nor shall such activities result in any draw-down of the river's flow such that fish may become stranded. Any groundwater discharges shall be directed to an appropriate and legal disposal site in an upland area that will not affect the surface elevation of the wetted channel of the Santa Clara River.
- The project applicant or its designee shall assess local stream and groundwater conditions, including flow depths, groundwater elevations, and anticipated dewatering cone of influence (radius of draw down).
- The project applicant or its designee shall monitor daily surface water elevations upstream, adjacent to, and downstream of the extraction points, to assess any critical flow regimes susceptible to excessive draw down before, during, and after groundwater dewatering activities. The designated monitor shall have the authority to halt dewatering activities if water levels decrease in the wetted portion of the Santa Clara River where unarmored threespine stickleback are present. In the event the designated monitor observes an effect on the wetted channel that necessitates halting of dewatering operations, the applicant will be required to consult with CDFW, revise the Construction Groundwater Dewatering Plan as appropriate, and implement whatever additional restrictions may be necessary to preclude impact to the wetted channel (such as limiting the extent of excavation dewatering, implementing other construction methods acceptable to the Los Angeles County Department of Public Works such as launch stone, or suspending construction until such time as regional groundwater conditions are more favorable for the construction to proceed).
- The project applicant or its designee shall monitor surface water elevations downstream of the project location to assess any flow regimes and overbank areas that may be susceptible to flooding.
- The project applicant or its designee shall monitor upland discharge locations for potential channel erosion from dewatering discharge, and appropriate BMPs must be implemented to prevent excessive erosion or turbidity in the discharge.
- Monitoring reports shall be summarized and provided to CDFW upon completion of construction activities that required dewatering.

Explanation:

Impacts to unarmored threespine stickleback from bridge construction, maintenance, and operation would be reduced to less-than-significant levels by Mitigation Measure 3-1 and the mitigation measures in the 2010 Final EIR by restricting bridge construction to the dry season and fully avoiding the Santa Clara River wetted channel. Mitigation Measure 3-1 requires the applicant or its designee to install an under-slung debris tarp, debris platform, or equivalent protection, extending 50 feet beyond the width of the wetted channel to prevent falling construction material from reaching the river, and daily monitoring water quality during concrete pouring operations to ascertain that water quality is not being affected. Because aquatic habitat would be avoided, the proposed modified bridge construction methods are consistent with Fish and Game Code section 5515.

Impacts to unarmored threespine stickleback from the temporary haul route bridges would be reduced to less-than-significant levels by Mitigation Measure 3-2 by avoiding the wetted channel of the Santa Clara River when constructing, installing and demobilizing the temporary haul route bridges. Mitigation Measure 3-2 requires a qualified biologist to monitor installation and demobilization activities to ensure that construction stays outside of the wetted portion of the river and that the temporary pile locations are at least 10 feet away from the edge of the wetted portion of the river. Because impacts to aquatic habitat where unarmored threespine stickleback could occur would be avoided, the construction methods can be implemented consistent with the Fish and Game Code.

Bank stabilization measures would not cause significant impacts to the unarmored threespine stickleback because Mitigation Measure 3-3 restricts construction activities to avoid accidental flooding and potential stranding within the work zone and daily monitoring of water quality during any concrete pouring operations (such as form storm drain outlet head wall construction) to ascertain that water quality is not being affected. Because adverse impacts to aquatic habitat would be avoided, the proposed construction methods can be implemented consistent with the Fish and Game Code.

Overall, the proposed construction modifications and design measures will impose environmentally protective measures and will not increase the area of construction disturbance compared to the project that was evaluated in the 2010 Final EIR. The currently proposed bridge alignment and bank stabilization locations would be essentially identical to the 2010 Final EIR's project description; in fact, the current design requires fewer bridge pilings. Because the proposed Project modifications will not increase the construction impact beyond what was previously analyzed in the 2010 Final EIR, and because the 2017 AEA contains a number of protective mitigation measures described above, no new significant impacts nor substantial increases in the severity of previously identified significant impacts will occur to the unarmored threespine stickleback or other fish and wildlife species, or their habitats.

C. Scope of Findings

The CDFW has determined that the scope of the AEA, and thus, these findings, is consistent with CEQA requirements. After comprehensive court challenges, the 2010 EIR has been upheld, except with respect to the GHG emissions significance finding and the two mitigation measures that would have permitted the collection and relocation of stranded unarmored threespine stickleback, if necessary. Thus, CDFW focused its assessment on the two issues identified in the court decisions. However, CDFW also evaluated the Project's proposed modifications and determined that they did not require any further impact analysis beyond what was evaluated in the 2017 Final AEA, technical appendices, and responses to comments. Further, CDFW assessed the Project's proposed modifications and determined that the suite of previously adopted mitigation measures in CDFW's 2010 MMRP remain adequate and complete under CEQA. CDFW also relies upon the information provided in the Final AEA, Topical Response 1: Scope of the Additional Environmental Analysis, in assessing the proper scope of the Final AEA.

Based on the CDFW's analysis and the 2017 Final AEA, CDFW's 2017 Supplemental Findings address the two issues found deficient in the referenced litigation. As discussed, the 2017 Supplemental Findings supplement or supersede the 2010 CEQA Findings and other CDFW approval actions regarding these two issues.

As to the adequacy of the alternatives analysis in the 2010 Final EIR, CDFW finds that the Court of Appeal upheld the 2010 Final EIR's alternatives analysis, and petitioners did not file a petition for review with the Supreme Court challenging the 2010 Final EIR's alternatives analysis or CDFW's consideration and rejection of the studied alternatives. The record also demonstrates that CDFW complied with CEQA by analyzing a reasonable range of alternatives in the 2010 Final EIR.⁴ The 2010 Final EIR did not identify an unavoidable significant impact related to biological resources (including unarmored threespine stickleback), global climate change, or GHG emissions — the issues that the Supreme Court and the Court of Appeal on remand required to be addressed.

The Project, as modified in the 2017 AEA, has not changed from the Project analyzed in the 2010 Final EIR, except as already described. As discussed in these findings, the only changes made between the 2010 Final EIR and the 2017 AEA relate to design refinements located within the same impact construction footprint previously analyzed in

⁴ The 2010 Final EIR analyzed seven alternatives to the project, including one No Action/No Project alternative and six "build" alternatives (Final EIR, Section 5.0) that would avoid or substantially lessen significant effects of the project. The project's significant and unavoidable environmental impacts after the implementation of mitigation measures occurred in the categories of air quality, noise, agricultural resources, visual resources, solid waste (project-specific and cumulative), hazards, hazardous materials and public safety (cumulative only), and land use (project-specific only). (CDFW, 2010 CEQA Findings, Dec. 3, 2010, at p. 19.)

the 2010 Final EIR, and do not increase the intensity or scope of the Project. Therefore, the alternatives analysis in the 2010 Final EIR remains equally applicable to the Project.

Moreover, the 2017 AEA does not identify any new significant impact, or substantial increase in the severity of a previously identified significant environmental impact, compared to the 2010 Final EIR. Accordingly, the 2017 AEA mitigation measures also would not change the alternatives analysis in 2010 Final EIR because the new mitigation measures would apply equally to each of the seven alternatives studied in the 2010 Final EIR, reducing the GHG emissions of all alternatives to net zero GHG emissions and avoiding impacts to the unarmored threespine stickleback for all alternatives.

D. Mitigation Monitoring and Reporting Program

CDFW hereby binds itself to cause the various feasible mitigation measures to be implemented in accordance with the 2017 Errata to the MMRP, in combination with the 2010 MMRP itself, consistent with CDFW's statutory jurisdiction and CEQA. Each mitigation measure identified in the 2017 AEA is included in the 2017 Errata to the MMRP, with specific requirements for implementing, monitoring, and enforcing each mitigation measure. CDFW hereby incorporates by reference its previously adopted 2010 MMRP. Accordingly, CDFW will use the 2010 MMRP (and the 2017 Errata to the MMRP) to track compliance with mitigation measures imposed by CDFW, and the 2010 MMRP and 2017 Errata to the MMRP will remain available for public review during the compliance period.

Thus, the mitigation measures constitute a binding set of obligations upon CDFW's certification and final action. Thus, the mitigation measures set forth below are identified in the Errata to the MMRP, adopted concurrently with these findings and included in the Final AEA, which will be implemented as required by CEQA. (See Pub. Resources Code, § 21081.6, subd. (a)(1); CEQA Guidelines, § 15097.)

In acknowledging the County of Los Angeles' plenary land use authority, CDFW recognizes that the non-biological mitigation measures identified herein properly fall within and are subject to the County's authority for purposes of implementing, monitoring, and enforcing the MMRP and the Errata to the MMRP (CEQA Guidelines, § 15097, subd. (a)). The applicant also has committed to CDFW to carry forward all mitigation measures identified as appropriate by CDFW, including the non-biological mitigation measures, as part of the County's processing of the subsequent subdivision maps that implement the project (see 2010 CEQA Findings, pp. 13-14). The applicant documented that commitment to CDFW in letters dated December 1, 2010, and June 9, 2017.

To ensure monitoring consistent with CEQA, the applicant has further agreed to fund the monitoring of mitigation measures identified herein and the MMRP through CDFW's selected environmental consultant. (The 2010 MMRP identified a specific consultant, however, those provisions are superseded herein by CDFW's commitment to select an appropriate environmental consultant(s) when required for mitigation implementation purposes.) The CDFW's 2010 MMRP and Errata to the MMRP are consistent with CEQA

provisions that contemplate a public agency adopting findings with respect to the significant effects identified in an environmental impact report and mitigation to avoid or substantially lessen such effects (Pub. Resources Code, § 21081, subd. (a)(1), (2)). Further, the 2010 MMRP and Errata to the MMRP are consistent with the CEQA Guidelines provision contemplating delegation of implementing and monitoring authority under CEQA (CEQA Guidelines, § 15097, subd. (a)).

E. Record of Proceedings

For purposes of these 2017 Supplemental Findings, the record of proceedings for CDFW's final actions with regard to its project approvals consists, at a minimum, of the following documents:

- All AEA application or related materials submitted to CDFW;
- Any draft environmental documents which were released for public review, including the Draft AEA and Final AEA, as well as all related appendices and any studies or other documents relied upon in any environmental document prepared for the AEA and either made available to the public during a public review period or included in CDFW's non-privileged files on the project analyzed in the AEA;
- All notices issued by CDFW to comply with CEQA or the CEQA Guidelines or with any other law relevant to and governing the processing and approval of the AEA and project, including but not limited to scoping notices and notices of availability of Draft and Final AEA documents;
- All staff reports, technical memoranda, and related non-privileged documents prepared by CDFW with respect to its compliance with CEQA and the CEQA Guidelines, and regarding issuance of the AEA and related project approvals;
- All written testimony or documents submitted by any person to CDFW relevant to these findings and CDFW's discretionary actions with respect to the project;
- All written non-privileged comments received in response to, or in connection with, the Draft AEA and Final AEA;
- All written non-privileged evidence or correspondence submitted to, or transferred from, CDFW with respect to compliance with CEQA or with respect to the 2017 AEA and project;
- The documentation of the final decision by CDFW, including all documents cited or relied on in these findings adopted pursuant to CEQA and the CEQA Guidelines;
- Any other written materials relevant to CDFW's compliance with CEQA and the CEQA Guidelines, or CDFW's decision with respect to the AEA and project,

including non-privileged internal agency communications, including staff notes and memoranda related to the AEA and project or to compliance with CEQA or the CEQA Guidelines;

- Matters of common knowledge to CDFW, including but not limited to federal, state, and local laws and regulations; and
- Any other materials required to be in CDFW's record of proceedings by Public Resources Code section 21167.6, subdivision (e).

The custodian of the documents comprising the record of proceedings is the California Department of Fish and Wildlife, located at 1416 Ninth Street, Sacramento, California 95814. All related inquiries should be directed to CDFW's Office of the General Counsel.

CDFW has relied on all of the documents listed above in exercising its independent judgment and reaching its decisions with respect to the 2017 Final AEA and the Project as modified.

F. Subsequent EIR Not Required

Comments received on the Draft AEA state the document is inadequate and that a subsequent EIR should have been prepared instead of the AEA. CDFW has reviewed these claims in light of the applicable CEQA statutory requirements. (Pub. Resources Code, § 21166.) Based on that review and CDFW's written responses in the 2017 Final AEA, which specifically address and reject this claim, CDFW finds that none of the conditions in Public Resources Code section 21166 requiring preparation of a subsequent EIR have arisen prior to or during the preparation and public review of the 2017 Final AEA. Consequently, after careful consideration, including a good faith evaluation of the facts and independent review and analysis of information submitted by the applicant, CDFW finds it has complied with CEQA in preparing the 2017 Final AEA and that neither a subsequent EIR nor a supplement to the 2010 Final EIR are required.

G. Recirculation Not Required

CEQA Guidelines section 15088.5 provides the criteria in which a lead agency is required to recirculate an EIR when "significant new information" is added to the EIR after public notice is provided of the availability of the Draft EIR, but before certification. (14 Cal. Code Regs., § 15088.5, subd. (a).) "Significant new information" is defined in CEQA Guidelines section 15088.5, subdivision (a), means information added to an EIR that changes the EIR so as to deprive the public of a meaningful opportunity to comment on a "substantial adverse environmental effect" or a "feasible way to mitigate or avoid such an effect (including a feasible project alternative) that the project's proponents have declined to implement."

An example of significant new information provided by the CEQA Guidelines is a disclosure showing that a “new significant environmental impact would result from the project or from a new mitigation measure proposed to be implemented (*id.* § 15088.5, subd. (a)(1));” or that a “substantial increase in the severity of an environmental impact would result unless mitigation measures are adopted to reduce the impact to a level of insignificance (*id.* § 15088.5, subd. (a)(2));” or a “feasible project alternative or mitigation measure considerably different from others previously analyzed would clearly lessen the significant environmental impacts of the project, but the project’s proponents decline to adopt it (*id.* § 15088.5, subd. (a)(3)).”

Recirculation is not required where “the new information added to the EIR merely clarifies or amplifies or makes insignificant modifications in an adequate EIR.” (*id.* § 15088.5, subd. (b).) Recirculation also is not required simply because new information is added to the EIR — indeed, new information is oftentimes added given CEQA’s public/agency comment and response process and CEQA’s post-Draft EIR circulation requirement of proposed responses to comments submitted by public agencies. Instead, recirculation is “intended to be an exception rather than the general rule.” (*Laurel Heights Improvement Assn. v. Regents of University of California* (1993) 6 Cal.4th 1112, 1132.)

In this context, CDFW finds that recirculation of the Draft AEA prior to certification is not required. In response to comments, the Final AEA incorporates various editorial clarifications, minor revisions, and enhancements to the analysis of the project’s GHG emissions. These revisions do not result in any new significant impacts or increase the severity of a previously identified significant impact; instead, the revisions expand upon information presented in the Draft AEA, further explain or enhance the evidentiary basis for the Draft AEA’s findings, and/or make clerical revisions to the Draft AEA. For example, the following summarizes the types of adjustments included in the Final AEA:

- Various minor edits to the AEA’s Introduction and Global Climate Change/Greenhouse Gas Emissions Chapters were made for clerical purposes and to reflect relevant updates in the regulatory setting (e.g., the California Air Resources Board’s issuance of the draft 2017 Scoping Plan Update).
- Mitigation Measures 2-1, 2-2, 2-4, 2-5, 2-6, and 2-8 through 2-13 have been revised in response to comments, as discussed in response to a particular comment, where appropriate. All revisions to the mitigation measures are intended to enhance or clarify the project applicant’s mitigation obligation for the activity in question, which provides further support for the AEA’s conclusion that the project will result in net zero GHG emissions. As demonstrated by evidence in the Final AEA, none of the revisions to Mitigation Measures 2-1, 2-2, 2-4, 2-5, 2-6, and 2-8 through 2-13 reduce the effectiveness or enforceability of the measures. In addition, the Final AEA incorporates a supplemental commitment by the project applicant to install additional electric vehicle charging stations. This supplemental commitment is not needed to achieve net zero GHG emissions for the project; as

such, the supplemental commitment further augments the project's GHG reductions.

- The Newhall Ranch Transportation Demand Management Plan (TDM Plan) has been updated, based on input from the County of Los Angeles, to incorporate an electric bicycle (e-bike) opportunity into the Neighborhood Electric Vehicle Strategy No. 11. This update helps ensure that Strategy No. 11 targets the project's wide-range of single-family and multi-family housing product types. Evidence in the Final AEA demonstrates that the update to Strategy No. 11 maintains the same level of effectiveness for reducing vehicle miles traveled as estimated in the Draft AEA.
- The Newhall Ranch Building Retrofit Program has been updated, based on input from the County of Los Angeles, to incorporate a similar confirmation process as that required by the Newhall Ranch GHG Reduction Plan. Specifically, as revised, the Building Retrofit Program requires an Approved Registry to confirm the implementation of building retrofit activities in disadvantaged communities and to provide an attestation that the project applicant has retired a sufficient quantity of GHG Mitigation Credits and/or Carbon Offsets from such activities prior to issuance of an applicable building permit from the County of Los Angeles (as such terms are defined in the GHG Reduction Plan). This update further enhances the environmental integrity and enforceability of the Building Retrofit Program.
- The GHG Reduction Plan has been revised in response to comments to further clarify, bolster and enhance the plan's environmental integrity and to provide additional assurances that the GHG reductions will meet the requirements of CEQA, including CEQA Guidelines section 15126.4(c)(3) and (c)(4). See Response to Comment O9-32 for a detailed summary of the revisions to the GHG Reduction Plan.

In addition, in response to comments, the 2017 AEA addressing the unarmored threespine stickleback includes a few clarifications, amplifications, or clerical modifications to the Draft AEA. Virtually all of the modifications clarify the measures to protect unarmored threespine stickleback and other special-status species. The revised pages of the Draft AEA also are included in the 2017 AEA so that public agencies, the public, and all other interested parties are apprised of such minor modifications. CDFW finds that none of the modifications shown in the Final AEA require recirculation.

III.

SUPPLEMENTAL STATEMENT OF OVERRIDING CONSIDERATIONS

This section of the findings addresses the requirements in CEQA Guidelines section 15093. It requires the lead agency to balance the benefits of a proposed project against the project's unavoidable significant impacts and to determine whether the impacts are acceptable overridden by the project benefits. As described in the 2010 Final EIR, significant unavoidable impacts would occur in the following resource areas: air quality, noise, agricultural resources, land use, visual resources, hazards, hazardous materials, and public safety, and solid waste. As described in the AEA, there would be no new or more severe significant unavoidable impacts based on the information provided in the AEA.

CDFW hereby re-adopts by reference in its entirety the 2010 Statement of Overriding Considerations adopted by CDFW as part of the 2010 CEQA Findings of Fact and Statement of Overriding Considerations (December 3, 2010), as supplemented by these findings. The 2010 Statement of Overriding Considerations describes benefits of the RMDP component of the project, of the SCP component of the project, and benefits of the Project resulting from buildout of the Newhall Ranch Specific Plan. All such benefits remain fully applicable. Accordingly, CDFW incorporates and adopts the 2010 Statement of Overriding Considerations here by reference.

In addition, CDFW finds based on the 2017 AEA, including supporting documentation in its administrative record, that the Project has the following supplemental benefits:

Benefits of the GHG Reduction Plan

The Project represents an innovative demonstration of a mixed-use development project providing needed housing and commercial development in a manner consistent with California's GHG reduction goals. Once developed, the Project will be one of the largest, if not the largest, developments ever in California to achieve net zero GHG emissions. Benefits achieved from the project are exemplified by, but are not necessarily limited to, the following:

- With implementation of Mitigation Measures 2-1 through 2-13, the Project will reduce all Project-related construction and operational GHG emissions to net zero over the 30-year project life.
- As highlighted in ARB's draft *2017 Climate Change Scoping Plan Update*, the Project serves as one of "[s]everal recent examples of sustainable land use development projects in California [that] have demonstrated that it is feasible to design projects that achieve zero net additional GHG emissions."⁵

⁵ ARB, *2017 Climate Change Scoping Plan Update: The Proposed Strategy for Achieving California's 2030 Greenhouse Gas Target* (January 20, 2017 Draft), at p. 135.

- The Project will design and construct residential development, commercial development, private recreation centers, and public facilities to achieve Zero Net Energy standards, as defined by the California Energy Commission, which advances California policy goals of increasing the energy efficiency of homes and commercial buildings.
- The Project will install an electric vehicle charging station at every residence, as well as thousands more electric vehicle charging stations in commercial areas within the project site and off-site throughout Los Angeles County. The Project will also provide subsidies for the purchase of zero emission vehicles to Project residents. This suite of mitigation commitments is expected to make the Project a model community for electric vehicle ownership and increase the electric vehicle adoption rate within the Santa Clarita area and Los Angeles County, advancing state, regional and local goals to reduce emissions through an increased use of electric vehicles.
- The Project will implement a comprehensive Transportation Demand Management Plan to reduce vehicle miles traveled and enhance the use of alternative transportation modes both on and off the Project site, advancing state, regional and local policy goals.
- The Project will provide funding for the purchase, operation and maintenance of a zero emission school bus program, and offer subsidies to transit providers for the replacement of up to 10 diesel or compressed natural gas transit buses with zero emission buses.
- The Project will undertake or fund a building retrofit program to improve the energy efficiency of homes and other buildings within disadvantaged communities in Los Angeles County.
- The Project will achieve GHG reductions by implementing direct reduction activities in accordance with the project's GHG Reduction Plan.

Benefits of Mitigation Measures to Protect the Unarmored Threespine Stickleback

- The Project avoids potentially significant impacts to the unarmored threespine stickleback through measures including: bridge construction, maintenance and operation measures, construction, operation, and demobilization of temporary haul routes bridges, and bank stabilization measures within the Santa Clara River.

Short-Term Economic Benefits of Project Construction

Based on the report prepared by the Los Angeles County Economic Development Corporation, Institute of Applied Economics, construction of the Project will generate construction jobs, business revenue and tax proceeds, which will benefit the Santa Clarita area and Los Angeles County. Such benefits of Project construction are exemplified by, but not necessarily limited to, the following:

- Creates approximately 130,000 total jobs in Los Angeles County, and approximately 145,000 jobs in California.
- Produces approximately \$7.5 billion in labor income in Los Angeles County, and approximately \$8.5 billion in labor income in California.
- Creates approximately \$21 billion in total output (business revenues) in Los Angeles County, and approximately \$24 billion in total output in California.
- Generates approximately \$2.5 billion in federal, state and local tax revenue from Los Angeles County activity, and approximately \$3 billion in federal, state and local tax revenue from California activity.

Long-Term Economic Benefits of Ongoing Operations

The Project will continue to generate on an annual basis local and regional permanent jobs, business revenue and tax proceeds, which will benefit the Santa Clarita area and Los Angeles County. Such ongoing annual project benefits are exemplified by, but not necessarily limited to, the following:

- Creates approximately 70,000 permanent jobs in Los Angeles County, and approximately 75,000 permanent jobs in California.
- Produces approximately \$4 billion in labor income in Los Angeles County, and approximately \$5 billion in labor income in California.
- Creates approximately \$13 billion in total output (business revenues) in Los Angeles County, and approximately \$14 billion in total output in California.
- Generates approximately \$1.5 billion in federal, state and local tax revenue from Los Angeles County activity, and approximately \$1.8 billion in federal, state and local tax revenue from California activity.

Findings

CDFW's findings set forth in the 2010 CEQA Findings and in the sections above have identified all of the adverse project-level and cumulative environmental impacts and the feasible mitigation measures which can reduce impacts to less than significant levels where feasible. The 2010 CEQA Findings also analyzed alternatives to the Project to determine whether they are feasible alternatives to the proposed action or whether they might reduce or eliminate any potentially significant impacts of the proposed action. The Project's land use and development footprint analyzed in the 2017 AEA has not changed compared to the Project analyzed in the 2010 Final EIR.

As summarized above, the 2017 AEA did not identify any new significant environmental impacts associated with the Project. The Project modifications related to GHG mitigation measures and modified bridge design measures do not result in any new significant environmental impacts, do not substantially increase the severity of any previously identified significant impacts, and do not trigger the need to reanalyze any additional topic areas beyond what has been analyzed in the 2017 AEA.

In light of the scale of this Project, the unique opportunities a project of this size provides for large-scale conservation and preservation of species and their habitats (specifically, the ability to require long-term conservation of approximately 8,500 acres of natural habitat), the unprecedented commitment to achieve net zero GHG emissions, and recognizing that primary land use authority for the development of the Project rests with Los Angeles County, which has already approved the Specific Plan, CDFW finds that the benefits of the Project, as identified in the 2010 Statement of Overriding Considerations, and as supplemented above, continue to outweigh the unavoidable significant adverse environmental impacts of the Project as identified in the 2010 Final EIR and originally approved by CDFW in 2010. The benefit of the Project, as identified in the 2010 Statement of Overriding Considerations, as supplemented above, is hereby determined to continue to be a basis for overriding all significant unavoidable project-level and cumulative environmental impacts identified in the 2010 Final EIR and the 2010 CEQA Findings of Fact, and as supplemented above.

Accordingly, CDFW has reviewed and considered the information contained in the 2010 Final EIR and the 2017 AEA, finds that the 2010 Final EIR and 2017 AEA reflect its independent judgment and discretion, finds that the 2010 Final EIR and the 2017 AEA were completed in compliance with CEQA; and CDFW hereby certifies the 2017 AEA, in combination with the 2010 Final EIR. In so doing, CDFW adopts these 2017 Supplemental CEQA Findings and the Supplemental Statement of Overriding Considerations as set forth above.

IV.

SUPPLEMENTAL FINDINGS UNDER CESA

These CESA findings supplement CDFW's 2010 CESA findings in order to address the Project, as modified, with regard to GHG emissions and the BIO-44 and 46 mitigation measures. In short, CDFW adopted CESA findings in 2010 as part of its issuance of two ITPs under CESA. The first ITP authorizes incidental take of CESA-listed bird species observed in the Project area (Covered Species) (i.e., western yellow-billed cuckoo, southwestern willow flycatcher, and least Bell's vireo). This first ITP also addressed special-status wildlife species observed in the project area (arroyo toad, tricolored blackbird, and western burrowing owl), and undescribed plant and wildlife species observed in the project area (sunflower, everlasting, and spring snail). These other species are considered "unlisted covered species" in the permit; and if, during the effective period of the ITP, any of the unlisted covered species were subsequently listed under CESA, CDFW would give due consideration to the applicant's avoidance,

minimization, and mitigation measures contained in the permit when evaluating a request to amend the permit to add the species to the take authorization provided by the permit.

The second ITP issued by CDFW in 2010 covers and authorizes incidental take under CESA of the San Fernando Valley spineflower. Spineflower is known to occur in the Project area and the population will be conserved onsite through a series of preserves, and minimization and mitigation measures, coupled with extensive management and monitoring provisions detailed in the ITP, SCP, and in the 2010 Final EIR.

With that background, the Project as modified will not increase the amount of take of any Covered Species in either ITP, compared to the Project as originally approved. Nor will the Project as modified significantly increase other Project impacts on the Covered Species because the Project modifies only the EIR's GHG analysis and related mitigation measures to ensure that project GHG emissions achieve net zero emissions. So, too, for the Project modifications eliminating the need for the stickleback collection and relocation measures deemed unlawful by the California Supreme Court. With these changes the Project as modified is actually improved from an environmental standpoint compared to the Project as originally approved in 2010.

The Project as modified does not affect CDFW's previous determination that issuance of the two ITPs meets and is otherwise consistent with the permitting criteria set forth in Fish and Game Code section 2081, subdivisions (b) and (c). CDFW issued the two ITPs in December 2010, finding issuance was consistent with the relevant permitting criteria set forth in the Fish and Game Code. CDFW found, among other things, that the impacts of the authorized taking would be minimized and fully mitigated, and that the Project would not jeopardize the continued existence of the Covered Species. Those findings are unchanged with regard to the Project as modified because the ITPs: (i) will not significantly increase the amount of take or the severity of other impacts of the taking on the Covered Species, (ii) will not substantively alter the measures as set forth in the ITPs as originally issued, which will be undertaken to minimize previously authorized impacts of the taking on the Covered Species, and (iii) no additional mitigation above and beyond what was already agreed to in the two ITPs is required. The Project applicant's continued adherence to and implementation of the avoidance, minimization, and mitigation measures set forth in the ITPs, the 2017 Errata to the MMRP, and the originally adopted MMRP will, among other things, continue to minimize and fully mitigate the authorized impacts of the taking of the Covered Species.

V.

SUPPLEMENTAL FINDINGS UNDER THE FISH AND GAME CODE

In December 2010, CDFW entered into a Master Streambed Alteration Agreement, or MSAA, with the Project applicant pursuant to Fish and Game Code sections 1602, 1603, and 1605. The MSAA addresses as described in the RMDP Project construction, operation, maintenance, and repair of bridges, roads, flood control structures, building pads, drainage facilities, utilities, trails, and associated infrastructure to implement the Newhall Ranch Specific Plan in or near the Santa Clara River and its tributary drainages.

The RMDP, as noted earlier, is one of two of the conservation, mitigation, and permitting plans CDFW approved in 2010. The RMDP as implemented under the MSAA will direct both resource management and development in the Project area where CDFW's related regulatory authority is implicated.

Pursuant to Fish and Game Code section 1602, and in response to the applicant's initial notification to CDFW of the activities described above, CDFW previously determined the activities described in the applicant's notification could have a substantial adverse effect on fish and wildlife resources. For that reason, CDFW and the applicant entered into the MSAA in 2010, which includes measures necessary to protect fish and wildlife resources.

As noted above in the Introduction the 2010 Final EIR includes a detailed analysis of all construction and operational impacts expected with implementation of the Project, including, but not limited to, the covered activities listed in Section III of the 2010 MSAA. Likewise, by comparison, these findings and the 2017 AEA summarize the applicant's proposed modifications to the design and construction of the Project's bridges and bank stabilization, driven principally by no water contact in the wetted channel during related construction activities, coupled with a suite of other measures to further minimize and avoid the prospect of potentially significant environmental effects. The 2017 AEA, in this respects, describes and analyzes the modified bridge and bank stabilization construction methods and explains such modifications will avoid impacts to unarmored threespine stickleback because those methods: (i) require construction to occur outside the wetted channel of the Santa Clara River, (ii) require implementation of new mitigation measures identified in the Final AEA, and (iii) eliminate the need for stream diversion, fish collection, and fish relocation as previously required by mitigation measures BIO-44 and BIO-46.

In addition, as reflected in the 2017 AEA, the operational long-term impacts of the bridges would be the same as those analyzed in the 2010 EIR. In some cases, the impacts would be less because the modified bridges would have a total of five fewer piers (which equates to 20 fewer columns and supporting tiles) than the bridges analyzed in the 2010 EIR. Further, any other long-term impacts resulting from bridge construction were raised or could have been raised in the prior legal challenge to the 2010 Final EIR and, thus, any further challenge is beyond the scope of the 2017 Final AEA (see Topical Response 1: Scope of the Additional Environmental Analysis).

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In light of the analysis presented in the 2017 AEA and supported in its administrative record of proceedings, CDFW finds that the Project's bridge and bank stabilization design and construction modifications do not significantly modify the scope or nature of any project covered by the 2010 MSAA or any measure included in that agreement to protect fish and wildlife resources (except to the extent that mitigation measures BIO-44 and BIO-46 are eliminated because the project's construction methods no longer required stream diversion, fish collection, or fish relocation). In addition, CDFW finds that the Project's design features and mitigation measures described in the 2017 AEA and 2010 Final EIR are adequate and fully avoid, minimize, and mitigate potentially significant impacts to unarmored threespine stickleback and other special-status species. Finally, CDFW finds that the 2010 MSAA and ITPs, in combination with the 2017 Errata to the 2010 MMRP, can be implemented consistent with CDFW's authority under the Fish and Game Code, including CDFW's obligations and responsibilities as California's designated trustee agency for fish and wildlife and as consistent with its public trust obligations generally.

* * *

CDFW hereby adopts these findings.



Edmund J. Pert, Regional Manager
South Coast Region
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6-14-17

