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Jul 07 2020

STATE CLEARINGHOUSE

July 7, 2020

Curtis M. Skaggs
Allensworth Community Services District
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Allensworth, California 93219
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**Subject: Water System Improvement Project (Project)
MITIGATED NEGATIVE DECLARATION (MND)
State Clearinghouse (SCH) No. 2020069009**

Dear Mr. Skaggs:

The California Department of Fish and Wildlife (CDFW) received a Notice of Intent to Adopt an MND from Allensworth Community Services District (ACSD) for the Project pursuant the California Environmental Quality Act (CEQA) and CEQA Guidelines.¹

Thank you for the opportunity to provide comments and recommendations regarding those activities involved in the Project that may affect California fish and wildlife. Likewise, CDFW appreciates the opportunity to provide comments regarding those aspects of the Project that CDFW, by law, may be required to carry out or approve through the exercise of its own regulatory authority under the Fish and Game Code.

CDFW ROLE

CDFW is California's **Trustee Agency** for fish and wildlife resources and holds those resources in trust by statute for all the people of the State (Fish & G. Code, §§ 711.7, subd. (a) & 1802; Pub. Resources Code, § 21070; CEQA Guidelines § 15386, subd. (a)). CDFW, in its trustee capacity, has jurisdiction over the conservation, protection, and management of fish, wildlife, native plants, and habitat necessary for biologically sustainable populations of those species (*Id.*, § 1802). Similarly, for purposes of CEQA, CDFW is charged by law to provide, as available, biological expertise during public agency environmental review efforts, focusing specifically on projects and related activities that have the potential to adversely affect fish and wildlife resources.

¹ CEQA is codified in the California Public Resources Code in section 21000 et seq. The "CEQA Guidelines" are found in Title 14 of the California Code of Regulations, commencing with section 15000.

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CDFW is also submitting comments as a **Responsible Agency** under CEQA (Pub. Resources Code, § 21069; CEQA Guidelines, § 15381). CDFW expects that it may need to exercise regulatory authority as provided by the Fish and Game Code. To the extent that implementation of the Project as proposed may result in “take” as defined by State law of any species protected under the California Endangered Species Act (CESA) (Fish & G. Code, § 2050 et seq.), related authorization as provided by the Fish and Game Code will be required.

CDFW has jurisdiction over fully protected species of birds, mammals, amphibians and reptiles, and fish, pursuant to Fish and Game Code sections 3511, 4700, 5050, and 5515. Take of any fully protected species is prohibited and CDFW cannot authorize their incidental take. However, CDFW may authorize, pursuant to Fish and Game Code section 2081.12, by permit, the take or possession of the State fully-protected blunt-nosed leopard lizard (*Gambelia sila*) resulting from impacts attributable to or otherwise related to the Project.

PROJECT DESCRIPTION SUMMARY

Proponent: ACSD.

Project Description: The Project includes the drilling, constructing, and development of a water supply well; the equipping of this well with a pump, motor, discharge piping, and electrical; connection of the well to the existing well lateral with 6-inch underground PVC piping; the construction of a 20.5 million gallon AWWA D100 welded steel storage tank and booster pumping station; and the associated underground PVC piping to connect the tank inlet and the booster pumping station to the existing water distribution system.

Location: The well site is located in Section 13 of Township 24 South, Range 24 East, M.D.B.&M. The 0.5-acre property is Assessor’s Parcel Number 333-252-020 in Tulare County. The tank site is located in Section 9 of Township 24 South, Range 24 East, M.D.B.&M. The 1-acre property is located at 3300 Road 84, #A in the community of Allensworth in Tulare County.

Timeframe: Unspecified

COMMENTS AND RECOMMENDATIONS

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

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The MND prepared for the Project indicates that the Project area has the potential to support several sensitive biological resources. The Project therefore has the potential to impact these resources. CDFW recognizes that the MND outlines mitigation measures to reduce impacts to biological resources; however, CDFW is concerned that, as currently drafted, these measures may not be adequate to reduce impacts to a level that is less than significant. CDFW is concerned regarding adequacy of mitigation (*Vulpes macrotis mutica*); the State and federally endangered Tipton kangaroo rat (*Dipodomys nitratooides nitratooides*); the State and federally endangered and State fully protected blunt-nosed leopard lizard (*Gambelia sila*); the State threatened Swainson's hawk (*Buteo swainsoni*); the State and federally endangered and California Rare Plant Rank (CRPR) 1B.1 California jewelflower (*Caulanthus californicus*); the State and federally endangered and CRPR 1B.1 Kern mallow (*Eremalche parryi* ssp. *kernensis*); the federally endangered and CRPR 1B.2 San Joaquin woollythreads (*Monolopia congdonii*); the CRPR 1B.2 recurved larkspur (*Delphinium recurvatum*), alkali mariposa lily (*Calochortus striatus*), bitter scale (*Atriplex depressa*), and heart scale (*Atriplex cordulata* var. *erecticaulis*); the State species of special concern American badger (*Taxidea taxus*), Tulare grasshopper mouse (*Onychomys torridus tularensis*), burrowing owl (*Athene cunicularia*), loggerhead shrike (*Lanius ludovicianus*), San Joaquin coachwhip (*Masticophis flagellum ruddocki*), western spadefoot (*Spea hammondi*), and coast horned lizard (*Phrynosoma blainvillii*); and the CDFW watch list California horned lark (*Eremophila alpestris actia*).

The CDFW Allensworth Ecological Reserve is located in the immediate vicinity of the Project's well site. Allensworth Ecological Reserve is owned and managed by CDFW for the preservation and protection of remnant Valley sink scrub habitat and associated special-status species, including those species listed above. Vegetation communities and habitats observed in the Project vicinity during reconnaissance surveys for the Project include Valley sink scrub, non-native annual grassland, irrigated row crops, vineyards, orchards and field crops, ruderal disturbed areas, and barren unvegetated areas including dirt roads.

Please note that the California Natural Diversity Data Base (CNDDDB) is populated by and records voluntary submissions of species detections. As a result, species may be present in locations not depicted in the CNDDDB but where there is suitable habitat and features capable of supporting species. Therefore, a lack of an occurrence record in the CNDDDB is not tantamount to a negative species finding. In order to adequately assess any potential Project related impacts to biological resources, surveys conducted by a qualified wildlife biologist or botanist during the appropriate survey period(s) and using the appropriate protocol survey methodology are warranted in order to determine whether or not any special-status species are present at or near the Project area.

CDFW recommends that the following modifications and/or edits be incorporated into the MND.

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I. Mitigation Measure or Alternative and Related Impact Shortcoming

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

COMMENT 1: San Joaquin Kit Fox (SJKF)

Issue: SJKF occurrences have been documented within the Project area (CDFW 2020). The MND acknowledges the potential to temporarily disturb and permanently alter suitable habitat for special status species including SJKF, and directly impact individuals if present during construction activities.

SJKF den in rights-of-way, agricultural and fallow/ruderal habitat, dry stream channels, and canal levees, etc., and populations can fluctuate over time. SJKF are also capable of occupying urban environments (Cypher and Frost 1999). SJKF may be attracted to project areas due to the type and level of ground-disturbing activities and the loose, friable soils resulting from intensive ground disturbance. SJKF will forage in fallow and agricultural fields and utilize streams and canals as dispersal corridors. As a result, there is potential for SJKF to occupy all suitable habitat within the Project boundary and surrounding area.

Issue: The MND acknowledges the potential for SJKF occupancy of the Project site. Mitigation Measure 1 of the MND has six bulleted measures for SJKF as conditions of Project approval; however, as currently drafted, take authorization from CDFW, in the event of SJKF occupancy of the Project area, is not included as a condition of Project approval.

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

Evidence impact is potentially significant: Habitat loss resulting from land conversion to agricultural, urban, and industrial development is the primary threat to SJKF (Cypher et al. 2013). Tulare and Kern Counties support relatively large areas of high suitability habitat and one of the largest remaining populations of SJKF (Cypher et al. 2013). The Project area is within and bordered by this remaining highly suitable habitat, which is otherwise intensively managed for agriculture. Therefore, subsequent ground-disturbing activities have the potential to significantly impact local SJKF populations.

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Recommended Potentially Feasible Mitigation Measure(s)

To evaluate potential impacts to SJKF associated with subsequent land conversion, ground disturbance and construction, CDFW recommends conducting the following evaluation of project areas and implementing the following mitigation measures.

Recommended Mitigation Measure 1: SJKF Surveys and Avoidance

CDFW recommends assessing presence or absence of SJKF by having qualified biologists conducting surveys of Project areas and a 500-foot buffer of Project areas to detect SJKF and their sign. CDFW also recommends following the United States Fish and Wildlife Service (USFWS 2011) “Standardized recommendations for protection of the San Joaquin kit fox prior to or during ground disturbance”. Including no-disturbance buffers around known or potential dens, and consultation to adequately avoid natal dens.

Recommended Mitigation Measure 2: SJKF Take Authorization

SJKF detection warrants consultation with CDFW to discuss how to avoid take, or if avoidance is not feasible, to acquire an Incidental Take Permit (ITP) prior to ground-disturbing activities, pursuant to Fish and Game Code section 2081 subdivision (b).

COMMENT 2: Blunt-nosed Leopard Lizard (BNLL)

Issue: The MND acknowledges that BNLL was observed in suitable habitat within and adjacent to the Project’s well site boundary during protocol surveys. BNLL occurrences are also previously documented within the Project well site area (CDFW 2020a). Suitable BNLL habitat in the Project area includes areas of grassland and upland scrub that contain requisite habitat elements, such as small mammal burrows. BNLL also use open space patches between suitable habitats, including disturbed sites, unpaved access roadways, and canals.

Specific impact: Without appropriate avoidance and minimization measures for BNLL, potentially significant impacts associated with ground-disturbing activities include habitat loss, burrow collapse, reduced reproductive success, reduced health and vigor of eggs and/or young, and direct mortality.

Evidence impact is potentially significant: Habitat loss resulting from agricultural, urban, and industrial development is the primary threat to BNLL (ESRP 2020a). The range for BNLL now consists of scattered parcels of undeveloped land within the valley floor and the foothills of the Coast Range (USFWS 1998). Some undeveloped areas with suitable BNLL habitat occur within the Project and surrounding area; therefore, ground disturbance and conversion of suitable habitat has the potential to significantly impact local BNLL populations.

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Recommended Potentially Feasible Mitigation Measure(s)

To evaluate potential impacts to BNLL associated with subsequent land conversion, ground disturbance and construction, CDFW recommends conducting the following evaluation of Project areas and implementing the following mitigation measures.

Recommended Mitigation Measure 3: BNLL Take Authorization

BNLL were observed within the Project well site and surrounding area during protocol-level surveys. Consultation with CDFW is therefore warranted, to discuss how to avoid take of the species or, if avoidance is not feasible, to acquire take authorization prior to ground-disturbing activities pursuant to Fish and Game Code section 2081.12.

COMMENT 3: Tipton Kangaroo Rat (TKR)

Issue: The MND and Biological Reconnaissance Survey Results (Biological Results) prepared May 2020 by Laurendine Biological Consulting, LLC acknowledge that TKR have been documented to occur within areas of suitable habitat within and adjacent to the Project (CDFW 2020a). The MND and Biological Results state that although limited in their distribution, many of the small mammal burrows observed exhibited characteristics of kangaroo rat (*Dipodomys* sp.). In addition, typical signs of kangaroo rat species presence were observed, including tail drags, footprints, dust baths, and scat. Previous trapping efforts for small mammals did not capture any TKR. Despite the presence of active kangaroo rat species sign, Appendix E of the Biological Results states that TKR are absent because small mammal trapping did not capture this species.

Mitigation Measure 3 of the MND specifies that TKR burrow avoidance will reduce impact to a less than significant level through an Avoidance Plan and ITP being pursued the Project. The Proposed Avoidance Plan provided in the MND (Appendix H of the Biological Reconnaissance Survey Results) is specific to the activities associated with prior test well drilling that have already been completed, and are not specific to the current Project's additional activities.

Specific impact: Without appropriate avoidance and minimization measures for TKR, potential significant impacts include loss of habitat, burrow collapse, inadvertent entrapment of individuals, reduced reproductive success such as reduced health or vigor of young, and direct mortality of individuals.

Evidence impact is potentially significant: Habitat loss resulting from agricultural, urban, and industrial development is the primary threat to TKR. Very little suitable habitat for this species remains along the western floor of the San Joaquin Valley (ESRP 2020b). Areas of suitable habitat within the Project represent some of the

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only remaining undeveloped land in the vicinity, which is otherwise intensively managed for agriculture. As a result, ground-disturbing activities within the Project may have the potential to significantly impact local populations of TKR.

Recommended Potentially Feasible Mitigation Measure(s)

Prior habitat assessments for the Project site have determined that suitable habitat for TKR is present. Given the probability for TKR to occupy the Project site, CDFW recommends conducting the following evaluation of Project areas and implementing the following mitigation measures.

Recommended Mitigation Measure 4: TKR Avoidance

Where suitable habitat is present, CDFW advises transect surveys to identify suitable burrow entrances, and maintenance of a 50-foot minimum no-disturbance buffer around each small mammal burrow entrance of suitable size for TKR use.

Recommended Mitigation Measure 5: TKR Take Authorization

If burrow avoidance is not feasible, then consultation with CDFW is warranted to discuss how to avoid take or, if avoidance is not feasible, to acquire an ITP prior to ground-disturbing activities, pursuant to Fish and Game Code section 2081 subdivision (b).

COMMENT 4: Swainson's Hawk (SWHA)

Issue: SWHA have been documented within the Project area. Review of recent aerial imagery indicates that trees, including landscape trees, capable of supporting nesting SWHA within the Project vicinity. In addition, grassland and agricultural land in the surrounding area provide suitable foraging habitat for SWHA, increasing the likelihood of SWHA occurrence within the vicinity.

The MND and Section 4.3.7 of the Biological Results specifies a minimum 150-foot to maximum 500-foot no-disturbance buffer around active raptor nests, including SWHA nests. The MND analysis does not explain why a no-disturbance buffer size of 150-feet to 500-feet was determined adequate to avoid significant impacts, including but not limited to take, as a result of Project implementation.

Specific impact: Without appropriate avoidance and minimization measures for SWHA, potential significant impacts associated with Project activities include loss of foraging and/or nesting habitat, nest abandonment, reduced reproductive success, and reduced health and vigor of eggs and/or young.

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Evidence impact would be significant: Lack of suitable nesting habitat in the San Joaquin Valley limits the local distribution and abundance of SWHA (CDFW 2016). The trees within the Project represent some of the only remaining suitable nesting habitat in the local vicinity. Depending on the timing of construction, activities including noise, vibration, and movement of workers or equipment could affect nests and have the potential to result in nest abandonment, significantly impacting local nesting SWHA. In addition, agricultural cropping patterns can directly influence distribution and abundance of SWHA. For example, SWHA can forage in grasslands, pasture, hay crops, and low growing irrigated crops; however, other agricultural crops such as orchards and vineyards are incompatible with SWHA foraging (Estep 2009, Swolgaard et al. 2008).

Recommended Potentially Feasible Mitigation Measure(s)

To evaluate potential impacts to SWHA associated with subsequent development, CDFW recommends conducting the following evaluation of Project areas and implementing the following mitigation measures.

Recommended Mitigation Measure 6: Focused SWHA Surveys

To evaluate potential Project-related impacts, CDFW recommends that a qualified wildlife biologist conduct surveys for nesting SWHA following the survey methodology developed by the SWHA Technical Advisory Committee (SWHA TAC 2000) prior to Project initiation. SWHA detection during protocol-level surveys warrants consultation with CDFW to discuss how to implement Project activities and avoid take.

Recommended Mitigation Measure 7: SWHA Avoidance

CDFW recommends that if Project-specific activities will take place during the SWHA nesting season (i.e., March 1 through August 31), and active SWHA nests are present, a minimum ½-mile no-disturbance buffer be delineated and maintained around each nest, regardless if when it was detected by surveys or incidentally, until the breeding season has ended or until a qualified biologist has determined that the birds have fledged and are no longer reliant upon the nest or parental care for survival, to prevent nest abandonment and other take of SWHA as a result of Project activities.

Recommended Mitigation Measure 8: Tree Removal

CDFW recommends that the removal of known raptor nest trees, even outside of the nesting season, be replaced with an appropriate native tree species planting at a ratio of 3:1 at or near the Project area or in another area that will be protected in

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perpetuity. This mitigation would offset the local and temporal impacts of nesting habitat loss.

Recommended Mitigation Measure 9: SWHA Take Authorization

If SWHA are detected and a ½-mile no-disturbance nest buffer is not feasible, consultation with CDFW is warranted to determine if the Project can avoid take. If SWHA take cannot be avoided, issuance of an ITP prior to Project activities is warranted to comply with CESA

COMMENT 5: Special-status Plants

Issue: Special-status plant species meeting the definition of rare or endangered under CEQA section 15380 are known to occur within the Project and surrounding area. Alkali mariposa lily, recurved larkspur, heartscale and bitterscale have been documented within the Project vicinity. Potential habitat was documented in the Project area for California jewelflower, San Joaquin woollythreads, and Kern mallow. The MND and Section 3.2.1 of the Biological Results state that the botanical field survey was not conducted during the optimal blooming period for annual special-status plant species.

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

Evidence impact would be significant: San Joaquin woollythreads, Kern mallow, recurved larkspur, California jewelflower, and many other special-status plant species are threatened by grazing and agricultural, urban, and energy development. Many historical occurrences of these species are presumed extirpated (CNPS 2019). Though new populations have recently been discovered, impacts to existing populations have the potential to significantly impact populations of plant species.

Recommended Potentially Feasible Mitigation Measure(s)

To evaluate potential impacts to special-status plants associated with subsequent development, CDFW recommends conducting the following evaluation of Project areas and implementing the following mitigation measures.

Recommended Mitigation Measure 10: Special-Status Plant Surveys

CDFW recommends that individual Project sites be surveyed for special-status plants by a qualified botanist following the “Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Natural Communities”

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(CDFG 2018). This protocol, which is intended to maximize detectability, includes the identification of reference populations to facilitate the likelihood of field investigations occurring during the appropriate floristic period.

Recommended Mitigation Measure 11: Special-Status Plant Avoidance

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

Recommended Mitigation Measure 12: Listed Plant Species Take Authorization

If any State-listed plant species is identified during botanical surveys, consultation with CDFW is warranted to determine if the Project can avoid take. If take cannot be avoided, take authorization is warranted. Take authorization would occur through issuance of an ITP, pursuant to Fish and Game Code section 2081 subdivision (b).

COMMENT 6: Burrowing Owl (BUOW)

Issue: BUOW occur within and in the vicinity of the Project (CDFW 2020). BUOW inhabit open grassland containing small mammal burrows, a requisite habitat feature used by BUOW for nesting and cover. Habitat both within and surrounding the Project supports grassland habitat. Therefore, there is potential for BUOW to occupy or colonize the Project.

The MND and Section 4.3.7 of the Biological Results specify a minimum 150-foot to maximum 500-foot no-disturbance buffer around active raptor nests, including BUOW burrows, without providing the basis of why those no-disturbance buffers were determined adequate to avoid significant impacts, including but not limited to take, as a result of Project implementation.

Specific impact: Potentially significant direct impacts associated with subsequent activities and land conversion include habitat loss, burrow collapse, inadvertent entrapment, nest abandonment, reduced reproductive success, reduction in health and vigor of eggs and/or young, and direct mortality of individuals.

Evidence impact is potentially significant: BUOW rely on burrow habitat year-round for their survival and reproduction. Habitat loss and degradation are considered the greatest threats to BUOW in California's Central Valley (Gervais et

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al. 2008). The Project and surrounding area contain remnant undeveloped land but is otherwise intensively managed for agriculture; therefore, subsequent ground-disturbing activities associated with subsequent constructions have the potential to significantly impact local BUOW populations. In addition, and as described in CDFW's "Staff Report on Burrowing Owl Mitigation" (CDFG 2012), excluding and/or evicting BUOW from their burrows is considered a potentially significant impact under CEQA.

Recommended Potentially Feasible Mitigation Measure(s) (Regarding Environmental Setting and Related Impact)

To evaluate potential impacts to BUOW associated with subsequent development, CDFW recommends conducting the following evaluation of Project areas and implementing the following mitigation measures.

Recommended Mitigation Measure 13: BUOW Habitat Assessment

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

Recommended Mitigation Measure 14: BUOW Surveys

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

Recommended Mitigation Measure 15: BUOW Avoidance

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

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

* meters (m)

Recommended Mitigation Measure 16: BUOW Passive Relocation and Mitigation

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

COMMENT 7: Other State Species of Special Concern

Issue: Tulare grasshopper mouse, San Joaquin coachwhip, western spadefoot, coast horned lizard, California horned lark, loggerhead shrike, and American badger can inhabit grassland and upland scrub habitats (Shuford and Gardali 2008, Thomson et al. 2016). All the species mentioned above have been documented to occur in the vicinity of the Project site, which supports requisite habitat elements for these species (CDFW 2020).

Specific impact: Without appropriate avoidance and minimization measures for these species, potentially significant impacts associated with ground disturbance include habitat loss, nest/den/burrow abandonment, which may result in reduced health or vigor of eggs and/or young, and direct mortality.

Evidence impact is potentially significant: Habitat loss threatens all of the species mentioned above (Shuford and Gardali 2008, Thomson et al. 2016). Habitat within and adjacent to the Project represents some of the only remaining undeveloped land in the vicinity, which is otherwise intensively managed for

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agriculture. As a result, ground-and vegetation-disturbing activities associated with development of the Project have the potential to significantly impact local populations of these species.

Recommended Mitigation Measure 17: Species of Special Concern Avoidance

Avoidance whenever possible is encouraged via delineation and observance a 50-foot no-disturbance buffer around dens of mammals like the American badger as well as the entrances of burrows that can provide refuge for small mammals, reptiles, and amphibians.

Editorial Comments and/or Suggestions

Federally Listed Species: CDFW recommends consulting with USFWS regarding potential impacts to federally listed species including but not limited to SJKF, BNLL, TKR, Kern mallow, California jewelflower, and San Joaquin woollythreads. Take under the Federal Endangered Species Act (FESA) is more broadly defined than CESA; take under FESA also includes significant habitat modification or degradation that could result in death or injury to a listed species by interfering with essential behavioral patterns such as breeding, foraging, or nesting. Consultation with the USFWS in order to comply with FESA is advised well in advance of any Project activities.

Nesting Birds: CDFW has jurisdiction over actions with potential to result in the disturbance or destruction of active nest sites or the unauthorized take of birds. Fish and Game Code sections that protect birds, their eggs and nests include sections 3503 (regarding unlawful take, possession or needless destruction of the nest or eggs of any bird), 3503.5 (regarding the take, possession or destruction of any birds-of-prey or their nests or eggs), and 3513 (regarding unlawful take of any migratory nongame bird).

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

To evaluate Project-related impacts on nesting birds, CDFW recommends that a qualified wildlife biologist conduct pre-activity surveys for active nests no more than 10 days prior to the start of ground disturbance to maximize the probability that nests that could potentially be impacted by the Project are detected. CDFW also recommends that surveys cover a sufficient area around the work site to identify nests and determine their status. A sufficient area means any area potentially affected by the Project. In addition to direct impacts (i.e., nest destruction), noise, vibration, and movement of workers or equipment could also affect nests. Prior to initiation of

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construction activities, CDFW recommends that a qualified biologist conduct a survey to establish a behavioral baseline of all identified nests. Once construction begins, CDFW recommends that a qualified biologist continuously monitor nests to detect behavioral changes resulting from the project. If behavioral changes occur, CDFW recommends that the work causing that change cease and CDFW be consulted for additional avoidance and minimization measures.

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

ENVIRONMENTAL DATA

CEQA requires that information developed in environmental impact reports and negative declarations be incorporated into a database, which may be used to make subsequent or supplemental environmental determinations (Pub. Resources Code, § 21003, subd. (e)). Accordingly, please report any special-status species and natural communities detected during Project surveys to the CNDDDB. The CNDDDB field survey form can be found at the following link:

http://www.dfg.ca.gov/biogeodata/cnddb/pdfs/CNDDDB_FieldSurveyForm.pdf. The completed form can be mailed electronically to CNDDDB at the following email address: CNDDDB@wildlife.ca.gov. The types of information reported to CNDDDB can be found at the following link: http://www.dfg.ca.gov/biogeodata/cnddb/plants_and_animals.asp.

FILING FEES

The Project, as proposed, would have an impact on fish and/or wildlife, and assessment of filing fees is necessary. Fees are payable upon filing of the Notice of Determination by the Lead Agency and serve to help defray the cost of environmental review by CDFW. Payment of the fee is required in order for the underlying project approval to be operative, vested, and final (Cal. Code Regs, tit. 14, § 753.5; Fish & G. Code, § 711.4; Pub. Resources Code, § 21089).

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CONCLUSION

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

If you have questions regarding these comments, please contact Annette Tenneboe, Senior Environmental Scientist (Specialist), at the address on this letterhead, by phone at (559) 243-4014 extension 231, or by email at Annette.Tenneboe@wildlife.ca.gov.

Sincerely,

DocuSigned by:

FA83F09FE08945A...
Julie A. Vance
Regional Manager

Attachment

ec: Office of Planning and Research
State Clearinghouse
state.clearinghouse.opr.ca.gov

Craig Bailey
Linda Connolly
Annee Ferranti
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Attachment 1**CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE
RECOMMENDED MITIGATION MONITORING AND REPORTING PROGRAM (MMRP)****PROJECT: Allensworth Community Services District Water System
Improvement Project**

RECOMMENDED MITIGATION MEASURES	STATUS/DATE/INITIALS
<i>Before Disturbing Soil or Vegetation</i>	
Recommended Mitigation Measure 1: SJKF Surveys and Avoidance	
Recommended Mitigation Measure 2: SJKF Take Authorization	
Recommended Mitigation Measure 3: BNLL Take Authorization	
Recommended Mitigation Measure 5: TKR Take Authorization	
Recommended Mitigation Measure 6: Focused SWHA Surveys	
Recommended Mitigation Measure 9: SWHA Take Authorization	
Recommended Mitigation Measure 10: Special-Status Plant Surveys	
Recommended Mitigation Measure 11: Special Status Plant Avoidance	
Recommended Mitigation Measure 12: Listed Plant Species Take Authorization	
Recommended Mitigation Measure 13: BUOW Habitat Assessment	
Recommended Mitigation Measure 14: BUOW Surveys	
Recommended Mitigation Measure 16: BUOW Passive Relocation and Mitigation	
<i>During Construction</i>	
Recommended Mitigation Measure 4: TKR Avoidance	
Recommended Mitigation Measure 7: SWHA Avoidance	
Recommended Mitigation Measure 8: Tree Removal	
Recommended Mitigation Measure 11: Special Status Plant Avoidance	
Recommended Mitigation Measure 15: BUOW Avoidance	
Recommended Mitigation Measure 17: Species of Special Concern Avoidance	